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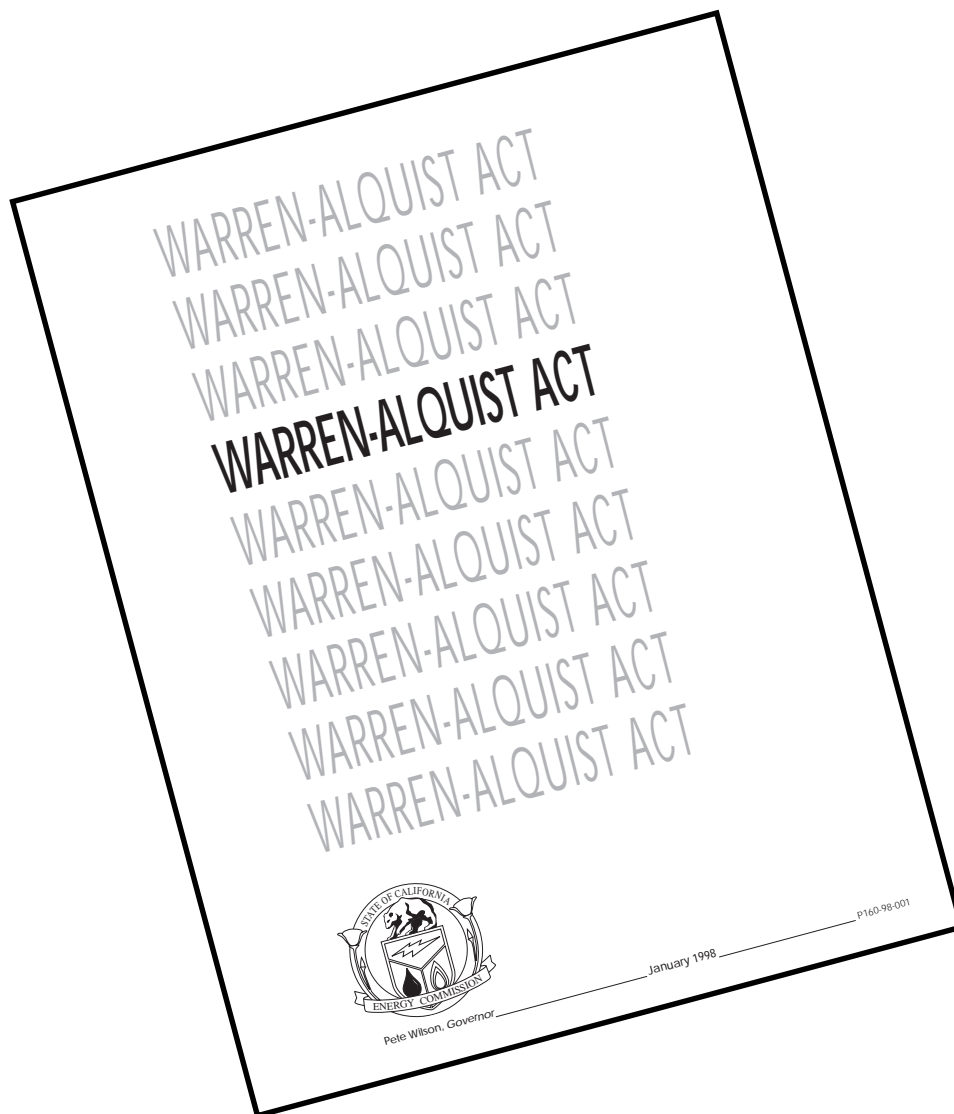
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CALIFORNIA ENERGY COMMISSION

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**Warren-Alquist State Energy Resources
Conservation and Development Act,
Public Resources Code Section 25000 *et seq.***

WARREN - ALQUIST ACT
AND RELATED STATUTES

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Division 15 of the Public Resources Code

ENERGY CONSERVATION AND DEVELOPMENT

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Division 15 was added by Stats. 1974, c. 276, p. 501 § 2, operative Jan. 7, 1975.

CHAPTER 1. TITLE AND GENERAL PROVISIONS

§ 25000. Short title

This division shall be known and may be cited as the Warren-Alquist State Energy Resources Conservation and Development Act.

§ 25000.1 Legislative finding; energy resources cost effectiveness, value for environmental costs/benefits

(a) The Legislature further finds and declares that, in addition to their other ratepayer protection objectives, a principal goal of electric and natural gas utilities' resource planning and investment shall be to minimize the cost to society of the reliable energy services that are provided by natural gas and electricity, and to improve the environment and to encourage the diversity of energy sources through improvements in energy efficiency and development of renewable energy resources, such as wind, solar, and geothermal energy.

(b) The Legislature further finds and declares that, in addition to any appropriate investments in energy production, electrical and natural gas utilities should seek to exploit all practicable and cost-effective conservation and improvements in the efficiency of energy use and distribution that offer equivalent or better system reliability, and which are not being exploited by any other entity.

(c) In calculating the cost effectiveness of energy resources, including conservation and load management options, the commission shall include a value for any costs and benefits to the environment, including air quality. The commission shall ensure that any values it develops pursuant to this section are consistent with values developed by the Public Utilities Commission pursuant to Section 701.1 of the Public Utilities Code. However, if the commission determines that a value developed pursuant to this subdivision is not consistent with a value developed by the Public Utilities Commission pursuant to subdivision (c) of Section 701.1 of the Public Utilities Code, the commission may nonetheless use this value if, in the appropriate record of its proceedings, it states its reasons for using the value it has selected.

§ 25000.5 Legislative findings; overdependence on petroleum based fuels; evaluation of economic and environmental costs of petroleum use; definition

(a) The Legislature finds and declares that overdependence on the production, marketing, and consumption of petroleum based fuels as an energy resource in the transportation sector is a threat to the energy security of the state due to continuing market and supply uncertainties. In addition, petroleum use as an energy resource contributes substantially to the following public health and environmental problems: air pollution, acid rain, global warming, and the degradation of California's marine environment and fisheries.

(b) Therefore, it is the policy of this state to fully evaluate the economic and environmental costs of petroleum use, and the economic and environmental costs of other transportation fuels, including the costs and values of environmental externalities, and to establish a state transportation energy policy that results in the least environmental and economic cost to the state. In pursuing the "least environmental and economic cost" strategy, it is the policy of the state

to exploit all practicable and cost-effective conservation and improvements in the efficiency of energy use and distribution, and to achieve energy security, diversity of supply sources, and competitiveness of transportation energy markets based on the least environmental and economic cost.

(c) For the purposes of this section, "petroleum based fuels" means fuels derived from liquid unrefined crude oil, including natural gas liquids, liquified petroleum gas, or the energy fraction of methyltertiarybutylether (MTBE) or other ethers that is not attributed to natural gas.

§ 25001. Legislative finding; essential nature of electrical energy

The Legislature hereby finds and declares that electrical energy is essential to the health, safety and welfare of the people of this state and to the state economy, and that it is the responsibility of state government to ensure that a reliable supply of electrical energy is maintained at a level consistent with the need for such energy for protection of public health and safety, for promotion of the general welfare, and for environmental quality protection.

§ 25002. Legislative finding; growth in demand; uses of power; depletion of irreversible commitment of resources

The Legislature further finds and declares that the present rapid rate of growth in demand for electric energy is in part due to wasteful, uneconomic, inefficient, and unnecessary uses of power and a continuation of this trend will result in serious depletion or irreversible commitment of energy, land and water resources, and potential threats to the state's environmental quality.

§ 25003. Legislative finding; consideration of state, regional and local plans

The Legislature further finds and declares that in planning for future electrical generating and related transmission facilities state, regional, and local plans for land use, urban expansion, transportation systems, environmental protection, and economic development should be considered.

§ 25004. Legislative finding; research and development

The Legislature further finds and declares that there is a pressing need to accelerate research and development into alternative sources of energy and into improved technology of design and siting of power facilities.

§ 25004.2 Legislative finding; cogeneration technology

The Legislature further finds that cogeneration technology is a potential energy resource and should be an important element of the state's energy supply mix. The Legislature further finds that cogeneration technology can assist meeting the state's energy needs while reducing the long-term use of conventional fuels, is readily available for immediate application, and reduces negative environmental impacts. The Legislature further finds that cogeneration technology is important with respect to the providing of a reliable and clean source of energy within the state and that cogeneration technology should receive immediate support and commitment from state government.

§ 25004.3 Legislative finding; advanced transportation technologies

The Legislature further finds and declares all of the following:

(a) Advanced transportation technologies hold the promise of conserving energy, reducing pollution, lowering traffic congestion, and promoting economic development and jobs in California.

(b) There is a pressing need to provide business assistance to California companies engaged in producing and commercializing advanced transportation technologies.

(c) It is the policy of the state to provide financial assistance to California companies, particularly small businesses, that are engaged in commercial efforts in the field of advanced transportation technologies.

§ 25005. Legislative finding; expansion in authority and technical capability of state government

The Legislature further finds and declares that prevention of delays and interruptions in the orderly provision of electrical energy, protection of environmental values, and conservation of energy resources require expanded authority and technical capability within state government.

§ 25005.5. Legislative policy; future energy problems, information, acquisition, and analysis

The Legislature further finds and declares that information should be acquired and analyzed by the State Energy Resources Conservation and Development Commission in order to ascertain future energy problems and uncertainties, including, but not limited to:

(a) The state's role in production of oil from domestic reserves, especially within Petroleum Administration for Defense District V.

(b) The production of Alaskan North Slope oil and its projected use in the state.

(c) Plans of the federal government for development of oil in the Outer Continental Shelf adjacent to the state.

(d) Impacts of petroleum price increases and projected conservation measures on the demand for energy and indirect effects on the need for offshore oil development and Alaskan oil delivery into the state.

(e) Potential shipment of Alaskan oil through the state.

(f) Proposals for processing petroleum outside the state to supply the needs within the state.

(g) The impact on the state of national energy policies, including Project Independence.

§ 25006. State policy; responsibility for energy resources

It is the policy of the state and the intent of the Legislature to establish and consolidate the state's responsibility for energy resources, for encouraging, developing, and coordinating research and development into energy supply and demand problems, and for regulating electrical generating and related transmission facilities.

§ 25007. State policy; reduction in certain uses of energy; conservation; statewide goals

It is further the policy of the state and the intent of the Legislature to employ a range of measures to reduce wasteful, uneconomical, and unnecessary uses of energy, thereby reducing the rate of growth of energy consumption, prudently conserve energy resources, and assure statewide environmental, public safety, and land use goals.

§ 25008. State policy; energy and water conservation; alternative energy supply sources; energy or water facilities at state-owned sites

It is further the policy of the state and the intent of the Legislature to promote all feasible means of energy and water conservation and all feasible uses of alternative energy and water supply sources.

The Legislature finds and declares that the State of California has extensive physical and natural resources available to it at state-owned sites and facilities which can be substituted for traditional energy supplies or which lend themselves readily to the production of electricity. Due to increases in energy and water costs, the state's expenditures for energy and water have also increased, adding to the burden on California taxpayers and reducing the amount of funds available for other public purposes.

It is in the best interest of the state to use these resources when it can be demonstrated that long-term cost, water, and energy use reduction will result, and where increased independence from other fuel and water sources and development of additional revenues for the state may be obtained.

Therefore, in recognition of recent and projected increases in the cost of energy and water from traditional sources, it is the policy of the state to use available resources at state facilities which can substitute for traditional energy and water supplies or produce electricity or water at its facilities when use or production will reduce long-term energy or water expenditures. Criteria used in analysis of proposed actions shall include lifecycle cost evaluation, benefit to taxpayers, reduced fossil fuel or reduced water consumption depending on the application, and improved efficiency. Energy or water facilities at state-owned sites shall be scaled to produce optimal system efficiency and best economic advantage to the state. Energy or water produced may be reserved by the state to meet state facility needs or may be sold to state or nonstate purchasers.

Resources and processes which may be used to substitute for traditional energy and water supplies and for the purpose of electrical generation at state facilities include, but are not limited to, cogeneration, biomass, wind, geothermal, vapor compression, water reclamation, and solar technologies.

It is the intent of the Legislature that no policy in this section, expressed or implied, be in conflict with existing state and federal regulations regarding the production or sale of electricity or water, and that this policy be just and reasonable to utility ratepayers.

§ 25008.5. Energy and water projects at state owned sites; third party financing and incentives to siting institutions; application of section; annual reports

(a) The Legislature hereby finds and declares that in order to maximize public benefit from private sector participation in state operations and to maximize the Legislature's ability to devote limited resources of the state to the responsibilities of state government that are less attractive to private sector investment, it is the policy of the state to encourage third-party financing of energy and water projects, including, but not limited to, cogeneration facilities, at state-owned sites.

(b) The Legislature further finds and declares that the development of energy and water projects at state-owned sites can be accelerated where reasonable incentives are provided to the siting institutions. These incentives are necessary to offset the long-term administrative, operational, and technical complexities of energy and water projects developed under this section. Reasonable incentives for implementing the policy of this section shall include the sharing of benefits derived from energy and water projects between the state and the siting institution. The benefits to the state and siting institutions derived from projects implemented under this section may include, but are not limited to, annual cash revenues, avoided capital costs, reduced energy costs, reduced water costs, site improvements, and additional operations and maintenance resources. The annual cash revenues derived from those projects shall be shared equally between the state and the siting institution, if both of the following conditions are met:

(1) The use of cash and avoided cost benefits by siting institutions is to be limited to improvement of ongoing maintenance, deferred maintenance, cost-effective energy improvements, and other infrastructure improvements. To the extent an institution receives annual cash revenues under this section, the institution shall retain any money it receives, but not to exceed one-half of this amount, in a special deposit fund account, which shall be continuously appropriated to the institution for the purposes of this section. The state's benefit share, and the siting institution's benefit share that exceeds its needs, shall be deposited in the Energy and Resources Fund or, if this fund is not in existence, the General Fund for the purpose of investing in renewable resources programs and energy efficiency improvements at state facilities.

(2) The use of benefits shall be in addition to, and shall not supplant or replace, funding from traditional sources for a siting institution's normal operations and maintenance or capital outlay budgets.

(c) The Legislature further finds and declares that a benefit-sharing incentive is applicable to energy projects reported to, or authorized by, the Legislature pursuant to Section 13304 or 14671.6 of the Government Code. This section shall not apply to energy projects which are constructed on or at facilities or property of the State Water Resources Development System.

(d) Commencing on January 1, 1986, the Department of General Services shall submit annual reports to the Legislature on the cost benefit aspects in carrying out this section.

(e) This section shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2000, deletes or extends that date.

CHAPTER 2. DEFINITIONS

§ 25100. Construction of division

Unless the context otherwise requires, the definitions in this chapter govern the construction of this division.

§ 25101. Applicant

"Applicant" means any person who submits an application for certification pursuant to the provisions of this division, including, but not limited to, any person who explores for or develops geothermal resources.

§ 25102. Application; geothermal powerplant and facilities; more than one site in application

"Application" means any request for certification of any site and related facility filed in accordance with the procedures established pursuant to this division. An applicant for a geothermal powerplant and related facilities may propose more than one site and related geothermal facilities in the same application.

§ 25103. Coastal zone

"Coastal zone" means the "coastal zone" as defined in Section 30103.

§ 25103.3. Suisun Marsh

"Suisun Marsh" means the Suisun Marsh, as defined in Section 29101.

§ 25103.7. Jurisdiction of the San Francisco Bay Conservation and Development Commission

"Jurisdiction of the San Francisco Bay Conservation and Development Commission" means the area defined in Section 66610 of the Government Code.

§ 25104. Commission

"Commission" means the State Energy Resources Conservation and Development Commission.

§ 25105. Construction

"Construction" means onsite work to install permanent equipment or structure for any facility. "Construction" does not include any of the following:

- (a) The installation of environmental monitoring equipment.
- (b) A soil or geological investigation.
- (c) A topographical survey.
- (d) Any other study or investigation to determine the environmental acceptability or feasibility of the use of the site for any particular facility.
- (e) Any work to provide access to a site for any of the purposes specified in subdivision (a), (b), (c), or (d).

§ 25106. Adviser

"Adviser" means the administrative adviser employed by the commission pursuant to Section 25217.

§ 25107. Electric transmission line

"Electric transmission line" means any electric powerline carrying electric power from a thermal powerplant located within the state to a point of junction with any interconnected transmission system. "Electric transmission line" does not include any replacement on the existing site of existing electric powerlines with electric powerlines equivalent to such existing electric powerlines or the placement of new or additional conductors, insulators, or accessories related to such electric powerlines on supporting structures in existence on the effective date of this division or certified pursuant to this division.

§ 25108. Electric utility

"Electric utility" means any person engaged in, or authorized to engage in, generating, transmitting, or distributing electric power by any facilities, including, but not limited to, any such person who is subject to the regulation of the Public Utilities Commission.

§ 25109. Energy

"Energy" means work or heat that is, or may be, produced from any fuel or source whatsoever.

§ 25110. Facility

"Facility" means any electric transmission line or thermal powerplant, or both electric transmission line and thermal powerplant, regulated according to the provisions of this division.

§ 25111. Account

"Account" means the Energy Resources Programs Account.

§ 25112. Member; member of the commission

"Member" or "member of the commission" means a member of the State Energy Resources Conservation and Development Commission appointed pursuant to Section 25200.

§ 25113. Notice

"Notice" means the notice of intent, as further defined in Chapter 6 (commencing with Section 25500), which shall state the intention of an applicant to file an application for certification of any site and related facility.

§ 25114. Interested party

"Interested party" means any person whom the commission finds and acknowledges as having a real and direct interest in any proceeding or action carried on, under, or as a result of the operation of, this division.

§ 25115. Equivalent certification program

"Equivalent certification program" means a program, as further defined in Section 25540.5. administered by a county and approved by the commission, which may substitute for the site and related facility certification procedures established pursuant to this division.

§ 25116. Person

"Person" means any person, firm, association, organization, partnership, business trust, corporation, limited liability company or company. "Person" also includes any city, county, public district or agency, the state or any department or agency thereof, and the United States to the extent authorized by federal law.

§ 25117. Plan

"Plan" means the Emergency Load Curtailment and Energy Distribution Plan.

§ 25118. Service area

"Service area" means any contiguous geographic area serviced by the same electric utility.

§ 25119. Site

"Site" means any location on which a facility is constructed or is proposed to be constructed.

§ 25120. Thermal powerplant

"Thermal powerplant" means any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant thereto. Exploratory, development, and production wells, resource

transmission lines, and other related facilities used in connection with a geothermal exploratory project or a geothermal field development project are not appurtenant facilities for the purposes of this division.

"Thermal powerplant" does not include any wind, hydroelectric, or solar photovoltaic electrical generating facility.

§ 25121. Fuel

"Fuel" means petroleum, crude oil, petroleum product, coal, natural gas, or any other substance used primarily for its energy content.

§ 25122. Gas utility

"Gas utility" means any person engaged in, or authorized to engage in, distributing or transporting natural gas, including, but not limited to, any such person who is subject to the regulation of the Public Utilities Commission.

§ 25123. Modification of an existing facility

"Modification of an existing facility" means any alteration, replacement, or improvement of equipment that results in a 50-megawatt or more increase in the electric generating capacity of an existing thermal powerplant or an increase of 25 percent in the peak operating voltage or peak kilowatt capacity of an existing electric transmission line.

§ 25124. Major oil producer

"Major oil producer" means any person who produces oil in amount determined by the commission as having a major effect on energy supplies.

§ 25125. Major natural gas producer

"Major natural gas producer" means any person who produces natural gas in amounts determined by the commission as having a major effect on energy supplies.

§ 25126. Major marketer

"Major marketer" means any person who sells natural gas or oil in amounts determined by the commission as having a major effect on energy supplies.

§ 25127. Refiner

"Refiner" means any person who owns, operates, or controls the operations of one or more refineries.

§ 25128. Refinery

"Refinery" means any industrial plant, regardless of capacity, processing crude oil feedstock and manufacturing oil products.

§ 25129. Foreign

"Foreign" means any area exclusive of the 50 states and the District of Columbia.

§ 25130. Nonresidential building

"Nonresidential" building means any building which is heated or cooled in its interior, and is of an occupancy type other than Type H, I, or J, as defined in the Uniform Building Code, 1973 edition, as adopted by the International Conference of Building Officials.

§ 25131. Residential building

"Residential building" means any hotel, motel, apartment house, lodginghouse, single and dwelling, or other residential building which is heated or mechanically cooled.

§ 25132. Load management

"Load management" means any utility program or activity that is intended to reshape deliberately a utility's load duration curve.

§ 25133. Geothermal element

"Geothermal element" means an element of a county general plan consisting of a statement of geothermal development policies, including a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals, including a discussion of environmental damages and identification of sensitive environmental areas, including unique wildlife habitat, scenic, residential, and recreational areas, adopted pursuant to Section 65303 of the Government Code.

§ 25134. Cogeneration

"Cogeneration" means the sequential use of energy for the production of electrical and useful thermal energy. The sequence can be thermal use followed by power production or the reverse, subject to the following standards:

(a) At least 5 percent of the cogeneration project's total annual energy output shall be in the form of useful thermal energy.

(b) Where useful thermal energy follows power production, the useful annual power output plus one-half the useful annual thermal energy output equals not less than 42.5 percent of any natural gas and oil energy input.

§ 25135. Conversion

"Conversion" means the processes by which residue is converted to a more usable energy form, including, but not limited to, combustion, anaerobic digestion, and pyrolysis, and is used for heating, process heat applications, and electric power generation.

§ 25136. Residue

"Residue" means any organic matter left as residue, such as agricultural and forestry residue, including, but not limited to, conifer thinnings, dead and dying trees, commercial hardwood, noncommercial hardwoods and softwoods, chaparral, burn, mill, agricultural field, and industrial residues, and manure.

§ 25137. Repealed

§ 25138. Repealed

§ 25139. Repealed

§ 25140. Solar thermal powerplant

"Solar thermal powerplant" means a thermal powerplant in which 75 percent or more of the total energy output is from solar energy and the use of backup fuels, such as oil, natural gas, and coal, does not, in the aggregate, exceed 25 percent of the total energy input of the facility during any calendar year period.

CHAPTER 3. STATE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

§ 25200. Creation; membership

There is in the Resources Agency the State Energy Resources Conservation and Development Commission, consisting of five members appointed by the Governor subject to Section 25204.

§ 25201. Qualifications of members

One member of the commission shall have a background in the field of engineering or physical science and have knowledge of energy supply or conversion systems; one member shall be an attorney and a member of the State Bar of California with administrative law experience; one member shall have background and experience in the field of environmental protection or the study of ecosystems; one member shall be an economist with background and experience in the field of natural resource management; and one member shall be from the public at large.

§ 25202. Ex officio members

The Secretary of the Resources Agency and the President of the Public Utilities Commission shall be ex officio, nonvoting members of the commission, whose presence shall not be counted for a quorum or for vote requirements.

§ 25203. Representation of state at large; full-time service

Each member of the commission shall represent the state at large and not any particular area thereof, and shall serve on a full-time basis.

§ 25204. Appointment by governor; advice and consent of senate

The Governor shall appoint the members of the commission within 30 days after the effective date of this division. Every appointment made by the Governor to the commission shall be subject to the advice and consent of a majority of the members elected to the Senate.

§ 25205. Conflicts of interest: public office; time; felony

(a) No person shall be a member of the commission who, during the two years prior to appointment on the commission, received any substantial portion of his income directly or indirectly from any electric utility, or who engages in sale or manufacture of any major component of any facility. No member of the commission shall be employed by any electric utility, applicant, or within two years after he ceases to be a member of the commission, by any person who engages in the sale or manufacture of any major component of any facility.

(b) Except as provided in Section 25202, the members of the commission shall not hold any other elected or appointed public office or position.

(c) The members of the commission and all employees of the commission shall comply with all applicable provisions of Section 19251 of the Government Code.

(d) No person who is a member or employee of the commission shall participate personally and substantially as a member or employee of the commission, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, hearing, application, request for a ruling, or other determination, contract, claim, controversy, study, plan, or other particular matter in which, to his knowledge, he, his spouse, minor child, or partner, or any organization, except a governmental agency or educational or research institution qualifying as a nonprofit organization under state or federal income tax law, in which he is serving, or has served as officer, director, trustee, partner, or employee while serving as a member or employee of the commission or within two years prior to his appointment as a member of the commission, has a direct or indirect financial interest.

(e) No person who is a partner, employer, or employee of a member or employee of the commission shall act as an attorney, agents, or employee for any person other than the state in connection with any judicial or other proceeding, hearing, application, request for a ruling, or other determination, contract, claim, controversy, study, plan, or other particular matter in which the commission is a party or has a direct and substantial interest.

(f) The provisions of this section shall not apply if the Attorney General finds that the interest of the member or employee of the commission is not so substantial as to be deemed likely to affect the integrity of the services which the state may expect from such member or employee.

(g) Any person who violates any provision of this section is guilty of a felony and shall be subject to a fine of not more than ten thousand dollars (\$10,000) or imprisonment in the state prison or both.

(h) The amendment of subdivision (d) of this section enacted by the 1975-76 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

§ 25206. Terms of office; vacancies

The terms of office of the members of the commission shall be for five years, except that the members first appointed to the commission shall classify themselves by lot so that the term of office of one member shall expire at the end of each one of the five years following the effective date of this division. Any vacancy shall be filled by the Governor within 30 days of the date on which a vacancy occurs for the unexpired portion of the term in which it occurs or for any new term of office.

If the Governor fails to make an appointment for any vacancy within such 30-day period, the Senate Rules Committee may make the appointment to fill the vacancy for the unexpired portion of the term in which the vacancy occurred or for any new term of office, subject to the provisions of Section 25204.

§ 25207. Compensation; expenses

The members of the commission shall receive the salary provided for by Chapter 6 (commencing with, Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

Each member of the commission shall receive the necessary traveling and other expenses incurred in the performance of his official duties. When necessary, the members of the commission and its employees may travel within or without the state.

§ 25208. Repealed

§ 25209. Vote: quorum

Each member of the commission shall have one vote. Except as provided in Section 25211, the affirmative votes of at least three members shall be required for the transaction of any business of the commission.

§ 25210. Hearings and investigations: powers of department heads

The commission may hold any hearings and conduct any investigations in any part of the state necessary to carry out its powers and duties prescribed by this division and, for those purposes, has the same powers as are conferred upon heads of departments of the state by Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

§ 25211. Committees: attendance; orders

The commission may appoint a committee of not less than two members of the commission to carry on investigations, inquiries, or hearings which the commission has power to undertake or to hold. At least one member of the committee shall attend all public hearings or other proceedings held pursuant to Chapter 6 (commencing with Section 25500), and all public hearings

in biennial report proceedings and rulemaking proceedings, except that, upon agreement of all parties to a proceeding who are present at the hearing or proceeding, the committee may authorize a hearing officer to continue to take evidence in the temporary absence of a commission member. Every order made by the committee pursuant to the inquiry, investigation, or hearing, when approved or confirmed by the commission and ordered filed in its office, shall be the order of the commission.

§ 25212. Chairman; vice chairman

Every two years the Governor shall designate a chairman and vice chairman of the commission from among its members.

§ 25213. Rules and regulations

The commission shall adopt rules and regulations, as necessary, to carry out the provisions of this division in conformity with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The commission shall make available to any person upon request copies of proposed regulations, together with summaries of reasons supporting their adoption.

§ 25214. Headquarters; branch offices; open meetings and hearings

The commission shall maintain its headquarters in the County of Sacramento and may establish branch offices in such parts of the state as the commission deems necessary. The commission shall hold meetings at such times and at such places as shall be determined by it. All meetings and hearings of the commission shall be open to the public, and opportunity to be heard with respect to the subject of the hearings shall be afforded to any person. Upon request, an interested party may be granted reasonable opportunity to examine any witness testifying at the hearing. The first meeting of the commission shall be held within 30 days after the confirmation of the last member of the commission pursuant to Section 25204. The Governor shall designate the time and place for the first meeting of the commission.

§ 25215. Removal of member

Any member of the commission may be removed from office by the Legislature, by concurrent resolution adopted by a majority vote of all members elected to each house, for dereliction of duty or corruption or incompetency.

§ 25216. Powers and duties; assessment of trends; statistics; research and development

In addition to other duties specified in this division, the commission shall do all of the following:

(a) Undertake a continuing assessment of trends in the consumption of electrical energy and other forms of energy and analyze the social, economic, and environmental consequences of these trends; carry out directly, or cause to be carried out, energy conservation measures specified in Chapter 5 (commencing with Section 25400) of this division; and recommend

to the Governor and the Legislature new and expanded energy conservation measures as required to meet the objectives of this division.

(b) Collect from electric utilities, gas utilities, and fuel producers and wholesalers and other sources forecasts of future supplies and consumption of all forms of energy, including electricity, and of future energy or fuel production and transporting facilities to be constructed; independently analyze such forecasts in relation to statewide estimates of population, economic, and other growth factors and in terms of the availability of energy resources, costs to consumers, and other factors; and formally specify statewide and service area electrical energy demands to be utilized as a basis for planning the siting and design of electric power generating and related facilities.

(c) Carry out, or cause to be carried out, under contract or other arrangements, research and development into alternative sources of energy, improvements in energy generation, transmission, and siting, fuel substitution, and other topics related to energy supply, demand, public safety, ecology, and conservation which are of particular statewide importance.

§ 25216.3. Standards; compilation; adoption; changes by governmental agencies

(a) The commission shall compile relevant local, regional, state, and federal land use, public safety, environmental, and other standards to be met in designing, siting, and operating facilities in the state; except as provided in subdivision (d) of Section 25402, adopt standards, except for air and water quality, to be met in designing or operating facilities to safeguard public health and safety, which may be different from or more stringent than those adopted by local, regional, or other state agencies, or by any federal agency if permitted by federal law; and monitor compliance and ensure that all facilities are operated in accordance with this division.

(b) The local, regional, and other state agencies shall advise the commission as to any change in its standards, ordinances, or laws which are pertinent and relevant to the objective of carrying out the provisions of this division.

§ 25216.4. Repealed

§ 25216.5. Powers and duties; applications; plans; policies; repository of data; dissemination; fees

The commission shall do all of the following:

(a) Prescribe the form and content of applications for facilities; conduct public hearings and take other actions to secure adequate evaluation of application; and formally act to approve or disapprove applications, including specifying conditions under which approval and continuing operation of any facility shall be permitted.

(b) Prepare an integrated plan specifying actions to be taken in the event of an impending serious shortage of energy, or a clear threat to public health, safety, or welfare.

(c) Evaluate policies governing the establishment of rates for electric power and other sources of energy as related to energy conservation, environmental protection, and other goals and policies established in this division, and transmit recommendations for changes in power-

pricing policies and rate schedules to the Governor, the Legislature, to the Public Utilities Commission, and to publicly owned electric utilities.

(d) Serve as a central repository within the state government for the collection, storage, retrieval, and dissemination of data and information on all forms of energy supply, demand, conservation, public safety, research, and related subjects. The data and information shall be derived from all sources, including, but not be limited to, electric and gas utilities, oil and other energy producing companies, institutions of higher education, private industry, public and private research laboratories, private individuals, and from any other source that the commission determines is necessary to carry out its objectives under this division. The commission may charge and collect a reasonable fee for retrieving and disseminating any such information to cover the cost of such a service. Any funds received by the commission pursuant to this subdivision shall be deposited in the account and are continuously appropriated for expenditure, by the commission, for purposes of retrieving and disseminating any such information pursuant to this section.

§ 25217. Powers and duties; appointment of staff and legal counsel

The commission shall do all of the following:

(a) Appoint an executive director with administration and fiscal experience, who shall serve at its pleasure and whose duties and salary shall be prescribed by the commission.

(b) Employ and prescribe the duties of other staff members as necessary to carry out the provisions of this division. Staff members of the commission may participate in all matters before the commission to the limits prescribed by the commission.

(c) Employ legal counsel who shall advise the commission and represent it in connection with legal matters and litigation before any boards and agencies of the state or federal government.

§ 25217.1. Public adviser; nomination and appointment; duties; removal

The commission shall nominate and the Governor shall appoint for a term of three years a public adviser to the commission who shall be an attorney admitted to the practice of law in this state and who shall carry out the provisions of Section 25222 as well as other duties prescribed by this division or by the commission. The adviser may be removed from office only upon the joint concurrence of four commissioners and the Governor.

§ 25217.5. Chairman; duties

The chairman of the commission shall direct the adviser, the executive director, and other staff in the performance of their duties in conformance with the policies and guidelines established by the commission.

§ 25218. Powers and duties; finance; contracts for services; actions; use of governmental agencies; rules and regulations

In addition to other powers specified in this division, the commission may do any of the following:

- (a) Apply for and accept grants, contributions, and appropriations.
- (b) Contract for professional services if such work or services cannot be satisfactorily performed by its employees or by any other state agency.
- (c) Be sued and sue.
- (d) Request and utilize the advice and services of all federal, state, local, and regional agencies.
- (e) Adopt any rule or regulation, or take any action, it deems reasonable and necessary to carry out the provisions of this division.
- (f) Adopt rules and regulations, or take any action, it deems reasonable and necessary to ensure the free and open participation of any member of the staff in proceedings before the commission.

§ 25218.5. Powers and duties; liberal construction

The provisions specifying any power or duty of the commission shall be liberally construed, in order to carry out the objectives of this division.

§ 25219. Matters involving the federal government

As to any matter involving the federal government, its departments or agencies, which is within the scope of the power and duties of the commission, the commission may represent its interest or the interest of any county, city, state agency, or public district upon its request, and to that end may correspond, confer, and cooperate with the federal government, its departments or agencies.

§ 25220. Participation in federal and state proceedings

The commission may participate as a party, to the extent that it shall determine, in any proceeding before any federal or state agency having authority whatsoever to approve or disapprove any aspect of a proposed facility, receive notice from any applicant of all applications and pleadings filed subsequently by such applicants in any of such proceedings, and, by its request, receive copies of any of such subsequently filed applications and pleadings that it shall deem necessary.

§ 25221. Attorney general; representation of commission; exception

Upon request of the commission, the Attorney General shall represent the commission and the state in litigation concerning affairs of the commission, unless the Attorney General represents another state agency, in which case the commission shall be authorized to employ other counsel.

§ 25222. Adviser; duties

The adviser shall insure that full and adequate participation by all interested groups and the public at large is secured in the planning, site and facility certification, energy conservation, and emergency allocation procedures provided in this division. The adviser shall insure that timely and complete notice of commission meetings and public hearings is disseminated to all interested groups and to the public at large. The adviser shall also advise such groups and the public as to effective ways of participating in the commission's proceedings. The adviser shall recommend to the commission additional measures to assure open consideration and public participation in energy planning, site and facility certification, energy conservation, and emergency allocation proceedings.

§ 25223. Public records; dissemination

The commission shall make available any information filed or submitted pursuant to this division under the provisions of the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7, Title 1 of the Government Code; provided, however, that the commission shall keep confidential any information submitted to the Division of Oil and Gas of the Department of Conservation that the division determines, pursuant to Section 3752, to be proprietary.

§ 25224. Exchange of information with state agencies

The commission and other state agencies shall, to the fullest extent possible, exchange records, reports, material, and other information relating to energy resources and conservation and power facilities siting, or any areas of mutual concern, to the end that unnecessary duplication of effort may be avoided.

§ 25225. Expenditure of funds, research or demonstration of vehicles or fuels

(a) Prior to expending any funds for any research, development, or demonstration program or project relating to vehicles or vehicle fuels, the commission shall do both of the following, using existing resources:

(1) Adopt a plan describing any proposed expenditure that sets forth the expected costs and qualitative as well as quantitative benefits of the proposed program or project.

(2) Find that the proposed program or project will not duplicate any other past or present publicly funded California program or project. This paragraph is not intended to prevent funding for programs or projects jointly funded with another public agency where there is no duplication.

(b) Within 120 days from the date of the conclusion of a program or project subject to subdivision (a) that is funded by the commission, the commission shall issue a public report that sets forth the actual costs of the program or project, the results achieved and how they compare with expected costs and benefits determined pursuant to paragraph (1) of subdivision (a), and any problems that were encountered by the program or project.

(c)(1) This section does not apply to any funds appropriated for research, development, or demonstration pursuant to a statute that expressly specifies both of the following:

(A) A vehicle technology or vehicle fuel which is the subject of the research, development, or demonstration.

(B) The purpose of, or anticipated products of, the research, development, or demonstration.

(2) This section does not apply to the Katz Safe Schoolbus Clean Fuel Efficiency Demonstration Program (Part 10.7 (commencing with Section 17910) of Division 1 of Title 1 of the Education Code).

CHAPTER 4. PLANNING AND FORECASTING

§ 25300. Forecasts and assessments of loads and resources; preparation and transmission by electric utilities; reports; contents

Every electric utility in the state shall prepare and transmit to the commission a report specifying 5-, 12-, and 20-year forecasts or assessments of loads and resources for its service area. Commencing in 1985, and every two years thereafter, the report shall be submitted to the commission on or before June 1. The report shall set forth the facilities which, as determined by the electric utility, will be required to supply electric power during the forecast or assessment periods. The report shall be in a form specified by the commission and shall include all of the following:

(a) A tabulation of estimated peak loads, resources, and reserve margins for each year during the 5- and 12-year forecast or assessment periods, and an estimate of peak load, resources, and reserve margins for the last year in the 20-year forecast or assessment period.

(b) A list of existing electric generating plants in service, with a description of planned and potential generating capacity at existing sites.

(c) A list of facilities which will be needed to serve additional electrical requirements identified in the forecasts or assessments, the general location of the facilities, and the anticipated types of fuel to be utilized in the proposed facilities.

(d) A description of additional system capacity which might be achieved through, among other things, improvements in (1) generating or transmission efficiency, (2) importation of power, (3) interstate or interregional pooling, and (4) other improvements in efficiencies of operation.

(e) An estimation of the availability and cost of fuel resources for the 5-, 12-, and 20-year forecast or assessment periods with a statement by the electric utility describing firm commitments for supplies of fuel required during the forecast or assessment periods.

(f) An annual load duration curve and a forecast of anticipated peak loads for each forecast or assessment period for the residential, commercial, industrial, and other major demand sectors in the service area of the electric utility as determined by the commission.

(g) A description of projected population growth, urban development, industrial expansion, and other growth factors influencing increased demand for electric energy and the bases for these projections.

(h) A description of the conservation programs in the residential, commercial, and industrial sectors being pursued by the utility, including load management standards adopted by the commission pursuant to Section 25403.5; and a statement specifying the extent to which these programs are achieving enhanced efficiency and conservation and the extent to which those programs do not, in the utility's evaluation, mitigate the need for additional facilities.

§ 25301. Common methodology; establishment; supplementary information; waiver

The commission shall establish and every electric utility shall utilize, for purposes of the report, a common methodology for preparing forecasts of future loads and resources. After applying the commission's established methodology to the mandatory elements of the report specified in Section 25300, any electric utility may transmit to the commission supplementary information and forecasts based upon an alternative methodology. If such alternate methodology is employed, the electric utility shall fully describe the data and other components of the methodology, and shall specify the reasons why the approach is considered more accurate than that established by the commission. The commission may waive the requirements of subdivision (d) or (g) of Section 25300 for any electric utility which the commission determines is not primarily engaged in the business of generating or selling electricity, when the commission determines that the collection and accumulation of any such information from such electric utilities is unnecessary for purposes of carrying out the provisions of this chapter.

§ 25302. Reports; dissemination; public inspection

Upon receipt of a report required under Section 25300 from an electric utility, the commission shall forward copies thereof to the Legislature, the Public Utilities Commission, the Secretary of the Resources Agency, the Director of the Office of Planning and Research, the California Coastal Commission, and other concerned state and federal agencies. The report shall also be made available, at cost, to any person upon request. The commission shall request each city and county within the service area covered by the report to review and comment on the report in relation to estimates of population growth and economic development, patterns of land use and open space, and conservation and other appropriate elements of the adopted city or county general plan. Upon request, the commission shall forward without charge a copy of the report to any interested city or county. A copy of the report shall be maintained on file for public inspection in each county.

§ 25303. Comments on reports; evaluation

For a period of two months after the receipt of the reports required under Section 25300 the commission shall receive the comments of any person on the reports. Within such period, the Public Utilities Commission shall submit its independent evaluation and analysis of the reports to the commission.

§ 25304. Forecasts of loads and resources; reviewal and evaluation; alternative methods

The commission shall review and evaluate the electric utilities' forecasts of loads and resources, and the comments of the Public Utilities Commission on such forecasts, in relation to the population growth estimates prepared by the Department of Finance, Population Research Unit, and in relation to statewide and regional land use, transportation, and economic development

programs and forecasts. The commission shall also examine the implications of the forecast level of loads and resources on, among other things, all of the following:

- (a) Critical environmental and other resources of the state, including air and water quality, coastal, natural, and other unique areas, and energy resources.
- (b) Public health and safety, general welfare, and the state's economy.
- (c) Capital requirements for new facilities and costs to consumers of electricity and other forms of energy.
- (d) Other significant factors which relate to the provision of electrical energy in the amounts and in the manner proposed by the electric utilities.

The commission shall also identify reasonable alternative technologies to those proposed by the electric utilities for consideration pursuant to Section 25604.

§ 25305. Draft electricity report; contents

Within nine months after receipt of the reports specified in Section 25300, the commission shall prepare and distribute a draft electricity report, setting forth its findings and conclusions regarding the electric utilities' forecasts. The report shall be based upon information and views presented in the comments received under Section 25303 and the commission's independent analysis, and shall contain all of the following:

- (a) The commission's evaluation of the probable service area and statewide, environmental, and economic impact and the health and safety aspect of constructing and operating the facilities proposed by the electric utilities and a description of the measures considered necessary by the commission to avoid or ameliorate any adverse impacts.
- (b) Discussion of reasonable alternative technologies to those proposed by the electrical utilities for consideration pursuant to Section 25604.
- (c) After consideration of the utility reports, public and agency comments, and forecasts prepared by the commission staff, the commission's 5- and 12-year forecasts of demand for electrical energy and capacity. Conservation, load management, or other demand reducing measures reasonably expected to occur shall be explicitly taken into account only in the determinations made pursuant to this subdivision, and shall not be considered as alternatives to a proposed facility during the siting process specified in Chapter 6 (commencing with Section 25500).
- (d) An analysis and evaluation of the means by which the projected annual rate of demand growth of electrical energy may be reduced together with an estimate of the amount of the reduction to be obtained by each of the means analyzed and evaluated, including a statement of the impact of the reduction on the factors reviewed by the commission set forth in Section 25304 and subdivision (a).
- (e) A statement of the level of statewide and service area electrical energy demand for the forthcoming 5- and 12-year forecast or assessment period which, in the judgment of the commission, will reasonably balance requirements of state and service area growth and

development, protection of public health and safety, preservation of environmental quality, maintenance of a sound economy, and conservation of energy and resources reasonably expected to occur. The 5- and 12-year forecasts or assessments established by the commission shall serve as the basis for planning and certification of facilities.

(f) A statement, on a statewide and service area basis, of the probable capacity additions consistent with the level of demand determined by the commission pursuant to subdivision (e).

(g) The anticipated level of statewide and service area electrical energy demand for 20 years, which shall serve as the basis for recommendations by the commission to the Governor, the Legislature, and other appropriate public and private agencies in all of the following categories:

- (1) Demand-reducing policies.
- (2) Conservation of energy.
- (3) Development of potential sources of energy.
- (4) Other policies and actions designed to affect the rate of growth in demand for electrical energy.

(h) A list, including maps, of existing electrical power generating sites, indicating those where the commission has determined that expansion is feasible within the forthcoming 12-year period.

(i) A list, including maps, of possible areas appropriate for additional electrical generating sites, including the generating capacity to be installed at the sites and the type of fuel and other general characteristics of the facilities which, as determined by the commission, will be required to meet the 12-year level of electrical energy demand established by the commission pursuant to subdivision (a).

(j) A list, including maps of sites and potential multiple-facility sites which have been found to be acceptable by the commission pursuant to Sections 25516 and 25516.5, including the generating capacity to be installed at each site and the type of fuel and other general characteristics of the facilities at each site.

§ 25306. Preliminary report; distribution

The commission shall distribute the report required under Section 25305 to the same persons, and under the same conditions, as prescribed in Section 25302.

§ 25307. Hearings on draft electricity report

Within three months after distribution of the commission's draft electricity report pursuant to Section 25305, the commission shall hold public hearings of which at least one shall be in the City of Sacramento to obtain the views and comments of the electric utilities, governmental

agencies, private groups, and any other person on the commission's proposals and recommendations in the draft electricity report.

§ 25307.5. Procedures for conduct of hearing; adoption of electricity report

In conducting hearings in the development of its draft, draft final, and final electricity reports prepared under this chapter, the commission shall use all the following procedures:

(a) The commission shall establish a schedule for hearing matters relating to electricity report issues, including a schedule for the submission of reports and testimony by the commission staff, electric utilities, and intervenors, and rebuttal witnesses for those parties. The schedule shall provide for at least 14 days between the mailing of all submittals and the conducting of any hearing thereon. The schedule may be amended from time to time by the commission or the committee presiding over the adoption of the electricity report if the amended schedule provides adequate time for parties to review reports and testimony.

(b) The schedule shall provide all of the following:

(1) One or more prehearing conferences for the purpose of permitting parties to identify factual issues involved in creating a sufficient foundation for the electricity report.

(2) A hearing order identifying the factual issues that will be considered in hearings to develop a record supporting the electricity report.

(3) One or more quasi-legislative evidentiary hearings to form a record for the commission's decisions on the factual issues which it determines are necessary to form the factual foundation for the electricity report, during which all testimony shall be given under oath and subject to reasonable cross examination. Where testimony is provided that involves the opinion of an expert, the witness shall, in the testimony, establish his or her qualifications with respect to the matters submitted. The commission shall also provide an opportunity for public comment on the policy choices and recommendations in the electricity report at one or more nonevidentiary hearings prior to adoption of the final report.

(c) All documentation developed by or submitted to the commission in support of reports or testimony shall be made available to interested parties within 10 days of a request therefor.

(d) The office of the public adviser shall facilitate adherence to the schedule and the participation of interested parties at all hearings.

(e) A written transcript of all the hearings shall be made and copies shall be made available within three days of receipt of the transcription by the commission.

Upon request of any party who indicates his or her willingness to pay the added cost of obtaining an expedited transcript, the commission shall direct the reporter to provide an official transcript on an expedited basis.

(f) At the request of any party in the proceedings, all applicable laws and regulations, both federal and state, and relevant Public Utilities Commission decisions, shall be incorporated by reference into the hearing record in accordance with the rules of official notice.

The commission may, by regulation or order, adopt further procedures, consistent with this section, for the adoption of the electricity report. The adoption of the electricity report shall be governed by the procedures specified in this section, and any additional procedures adopted by the commission, and shall not be governed by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

§ 25308. Final report

Within 12 months after receipt of the reports required in Section 25300, the commission shall publish and distribute for public comment its draft final report on the electric utilities' forecasts and on the commission's independent analyses and evaluations, as specified in Section 25305. The published draft final electricity report shall contain the commission's adopted electricity forecast. The commission shall accept public comment on the draft final report for not more than 90 days and, after one or more public hearings, shall adopt the final electricity report within 15 months after receipt of the utility reports required by Section 25300. The final electricity report shall take effect on the day it is adopted by the commission.

§ 25308.5. Establishment of criteria to determine demand conformance for siting of facilities; description of support for policy decisions from hearing record

(a) In developing the electricity report, the commission shall, after providing an opportunity for parties to submit recommendations, establish criteria for determining demand conformance for the siting of facilities.

(b) In issuing the final electricity report, the commission shall describe how the hearing record supports its policy decisions, including, but not limited to, the demand and supply forecasts and the demand conformance criteria.

§ 25309. Biennial report; contents

Beginning May 1, 1985, and every two years thereafter, the commission shall transmit to the Governor and the Legislature a comprehensive report designed to identify emerging trends related to energy supply, demand, and conservation and public health and safety factors, and to provide the basis for state policy and actions in relation thereto, including, but not limited to, approval of new sites for additional facilities. The report shall include, but not be limited to, all of the following:

(a) An overview, looking 20 years ahead, of statewide growth and development as they relate to future requirements for energy, including patterns of urban metropolitan expansion, statewide and service area economic growth, shifts in transportation modes, modifications in building types and design, and other trends and factors which, as determined by the commission, will significantly affect energy consumption and need to be considered in formulating state energy policy and programs.

(b) The commission's integrated assessment of the need for new resource additions, as determined pursuant to subdivisions (a) to (f), inclusive, of Section 25305 and adopted in its final report pursuant to Section 25308, which shall be used as the basis of planning and approval of new resource additions, including the level of statewide and service area electrical energy demand for the forthcoming 5- and 12-year forecasts or assessment periods which, in the judgment of the commission, will reasonably balance the requirements of state and service area growth and development, the protection of the public health and safety, the preservation of environmental quality, the maintenance of a sound economy, and the conservation of resources.

(c) A statement, on a statewide and service area basis, of the probable capacity additions consistent with the level of demand determined by the commission pursuant to Sections 25305 to 25308, inclusive.

(d) The anticipated level of statewide and service area electrical energy demand for 20 years, which shall serve as the basis for recommendations by the commission to the Governor, the Legislature, and other appropriate public and private agencies.

(e) Based upon the commission's 20-year forecasts or assessment of growth trends in energy consumption and production, identification of potential adverse social, economic, or environmental impacts which might be imposed by continuation of the present trends, including, but not limited to, the costs of electricity and other forms of energy to consumers, significant increases in air, water, and other forms of pollution, threats to public health and safety, and loss of scenic and natural areas.

(f) Assessment of the energy resources available to the state, including among others, fossil fuels and nuclear, solar, geothermal, cogeneration, and purchased power resources and power pooling; assessment of the potential of, and examination of the availability of, commercially developable fuels, including imported fuels, during the forthcoming 12- and 20-year periods; and recommendations regarding measures to be applied to conserve energy and fuels.

(g) An analysis and evaluation of the means by which the projected annual rate of demand growth of energy may be reduced, together with an estimate of the amount of the reduction to be obtained by policies and programs evaluated pursuant to Section 25401.1.

(h) An indication of those technologies which merit continued consideration or support in the commission's long range assessment efforts and its research and development program. The report shall also indicate those electrical generation and nongeneration technologies which have been found to be commercially available or reasonably expected to become available pursuant to Section 25604.

(i) A description of the commission's responsibilities and recommendations for emergency measures to be applied in the event of impending serious shortage of electrical and other forms of energy as provided in Chapter 8 (commencing with Section 25700) and evaluated under subdivision (b) of Section 25358.

(j) Recommendations to the Governor and the Legislature for administrative and legislative actions based on the results of commission studies and evaluations.

§ 25309.1. Biennial report required by § 25309; statewide and regional transportation energy demand forecasts

Commencing January 1, 1992, as part of the biennial report required by Section 25309, the commission shall include a forecast of statewide and regional transportation energy demand for a 5-, 12-, and 20-year planning horizon for the following scenarios:

(a) A forecast of energy use reasonably expected to occur through currently planned and adopted energy efficiency, conservation, and alternative fuels programs.

(b) A forecast of energy use under a maximum petroleum use reduction scenario, assuring achievement of maximum feasible transportation energy efficiency and conservation measures and maximum feasible fuel diversity.

(c) A forecast of energy use under a "least environmental and economic cost" scenario, including the costs and values of externalities. The least environmental and economic cost scenario shall, in addition to conventional economic data, utilize assessments of costs and values associated with environmental quality, life-cycle energy and environmental costs, energy diversity, and energy security, and to the extent feasible integrate the costs and values associated with the following:

(1) Air pollution, water pollution, global warming, and other adverse environmental impacts of transportation energy exploration, development, production, and use.

(2) Future price changes in energy resources and supply disruptions, including the effects of price changes and supply disruptions on business and commerce and public welfare.

(3) Considerations of energy security and preparedness, including the costs of maintaining access to foreign energy supplies.

(4) Maintaining state and federal strategic energy reserves.

§ 25309.2. Review of biennial reports; governor's report to legislature

Beginning with the biennial report transmitted by the commission in 1981, the Governor shall review each such report and shall, within 90 days after its receipt, report further to the Legislature, his agreement or disagreement with the policy recommendations contained therein. The Governor's report to the Legislature shall cover at least the items required to be included in the commission's biennial report by Section 25309 and may cover such additional items as the Governor may deem necessary or appropriate. In the event that the Governor disagrees with one or more recommendations in the commission's biennial report, he shall, in each instance, indicate the reasons for such disagreement and shall specify the alternate policy which he deems appropriate.

The Governor's report to the Legislature pursuant to this section shall be deemed to be his official statement of energy policy.

§ 25309.5. Repealed

§ 25310. Biennial report of emerging trends

(a) Commencing November 1, 1985, and every two years thereafter, the commission shall publish and submit to the Governor and the Legislature a comprehensive report describing emerging trends relating to the use, availability, and pricing of petroleum and petroleum products, natural gas, coal, synthetic and other fuels, and investments in production and refining, and potential alternate fuel technologies. The commission shall include in its report long range forecasts of the anticipated supply and price of these fuels, and the demand for these fuels in the residential, commercial, and industrial sectors, and for electrical generation and transportation. The report shall assess the risk of fuel supply disruption, price shocks, or other events, and shall assess the consequences of these events on the availability and price of fuels and the effects on the state's economy. The report shall also recommend needed changes in the state's energy shortage contingency plans, and include specific recommendations for legislative or administrative actions to increase production and productivity, improve the efficiency of fuel use, increase conservation, and any other actions needed to maintain sufficient, secure, and affordable fuel supplies for the state. Nothing in this section expands or diminishes the authority contained in Section 25216.

(b) Not less than 60 days prior to publication of the report required by subdivision (a), the commission shall submit a draft copy of the report to the Public Utilities Commission. Not more than 45 days after receiving a copy of the draft report, the Public Utilities Commission shall submit written comments to the commission on any analysis, findings, or recommendations which pertain to the Public Utilities Commission's constitutional, statutory, and other responsibilities. Each final report published and submitted to the Legislature and the Governor pursuant to subdivision (a) shall contain a summary of any written comments adopted and submitted to the commission by the Public Utilities Commission.

§ 25310.1. Information on expected availability and prices of fuels for low-emission motor vehicles; report

The commission, in cooperation with the State Air Resources Board, shall prepare, by September 1, 1988, a report on the expected availability and prices of fuels which are anticipated to be required for use in low-emission motor vehicles using methanol or other clean-burning fuels and shall thereafter include, in its biennial report prepared under Section 25310, information on the expected availability and prices of those fuels.

The report shall include an assessment of the relative cost to users, compared to gasoline, of these fuels. The report shall also recommend to the Legislature any changes needed to ensure that these fuels are used to the greatest extent practicable. This information shall be included in the 1989 biennial report and in each report thereafter.

The 1991 and later biennial reports shall include an assessment of the success of the introduction, prices, and availability of these fuels.

§ 25310.2. Report required by § 25310; additional information

The report required by Section 25310 shall also include, to the extent funds are available in the existing budget of the commission, information relating to methanol, fuel cells, liquid petroleum gas, natural gas, and electricity.

The report shall also describe the availability, economic cost, and air quality benefits associated with the use of clean-burning fuels in the stationary source and transportation sectors of California and shall consider the use of new pollution control technologies in conjunction with traditional fuels in comparison with the use of clean-burning fuels. This segment of the report shall be developed in consultation with the Public Utilities Commission, the State Air Resources Board, and the air pollution control districts and air quality management districts.

§ 25310.3 Report required by § 25310; impact and administration of incentives for low-emission vehicles

The 1991 report and subsequent biennial reports prepared pursuant to Section 25310 shall include a report on the impact and administration of incentives designed to encourage the purchase and use of low-emission vehicles, including, but not limited to, the incentives established under Section 6356.5 of the Revenue and Taxation Code.

§ 25310.4. Reports on low-emission vehicle fuel availability

(a) Commencing September 1, 1993, the commission, in consultation with the State Air Resources Board and the Public Utilities Commission, may direct fuel producers, suppliers, distributors, and the owners and lessors of retail fueling outlets, that are selling fuels used by low-emission vehicles, to provide the commission, on a periodic basis as scheduled by the commission, with data and information, not otherwise supplied under Chapter 4.5 (commencing with Section 25350), concerning fuel availability, posted or average wholesale or rack prices, and prices charged for those fuels. The commission may request other low-emission vehicle fuel information needed to fulfill its reporting obligations under Sections 25310.1, 25310.2, and 25310.3, and subdivision (c). The information shall be provided to the commission in the form and to the extent

that the commission prescribes. To the maximum extent practicable, the commission shall use existing reporting forms and procedures to implement this section.

(b) The information and data provided to the commission pursuant to this section shall be subject to the confidentiality provisions of Section 25364.

(c) Commencing in 1995, the biennial report prepared pursuant to Section 25310 shall include a report on whether fuels used for low-emission vehicles are being effectively marketed and effectively made available to customers, and shall include recommendations for ensuring the availability of those fuels to customers.

§ 25320. Informational reports of gas and electric utilities, major natural gas producers and marketers; contents

(a) By April 1, 1975, and every three months thereafter, each electric utility, gas utility, major natural gas producer, and major marketer of natural gas, doing business within this state shall submit the information described in this section to the commission for analysis. Such information shall be based on actual records or projections and shall include data from the prior quarter and estimates for the period ending one year from the reporting date. The information shall be used by the commission in order, among other things, that it may properly assess the nature and extent of any energy shortage, the economic and environmental impacts of any energy shortage, and obtain information in a manner which will enable the state to take actions to meet or mitigate any energy shortage.

Any such information which is also required to be reported to other governmental agencies may be submitted to the commission in fulfillment of the requirements of this section. The commission may require additional information if necessary to carry out the provisions of this section.

(b) Each natural gas producer shall submit information to the commission specifying, by month, the amount of gas produced, stored or withdrawn from storage, the available supply, and the amounts of gas supplied to classes of major uses, as designated by the commission.

(c) Each gas utility shall submit information to the commission specifying, by month, the utility's sources and amounts of supply, the amounts of demand and amounts supplied to all major uses, both firm and interruptible, as designated by the commission, and amounts of gas stored or withdrawn from storage, and exchanges, imports into the state, and exports from the state of gas supplies.

(d) Each electric utility shall submit information to the commission specifying, by month, the utility's amount of electricity generated and generating capacity by type of generation, amounts of exchanges and transfers of electricity, amounts of oil and gas required to generate electricity, indicating the source of supply, including inventory on hand, and the amounts of electricity supplied for all major uses, as designated by the commission.

§ 25321. Marketing or trade secrets; confidentiality

Information to be presented to the commission pursuant to Section 25320 that is a marketing or trade secret shall be aggregated by the commission to the extent necessary to assure confidentiality. Upon a petition by any person, the commission shall, by a written decision setting forth its reasons, make a determination whether specific information submitted to it is a marketing or trade secret and should not be publicly disclosed. The commission shall not consider information to be a marketing or trade secret if it has been knowingly revealed by the petitioner or publicly available to any competitor of the petitioner. In making its determination, the commission may consult with the Attorney General.

§ 25322. Summary and publication of information; hearings; report to governor

The commission shall summarize the information submitted to it pursuant to Section 25320 and shall publish such summaries within 30 days of the submittal of such information. Any person may submit comments in writing regarding the accuracy or sufficiency of the information, and the commission may hold hearings to determine the accuracy or sufficiency of the information submitted. The summaries prepared by the commission shall be part of its report to the Governor and to the Legislature.

§ 25323. Prohibition of mandate for specified supply plan for utility

Nothing in this division shall authorize the commission in the performance of its analytical, planning, siting, or certification responsibilities to mandate a specified supply plan for any utility.

§ 25324. Identification and evaluation by commission of energy programs for use in achieving energy use forecast under least environmental and economic cost scenario

The commission, in consultation with the State Air Resources Board, the California Transportation Commission, the Office of Planning and Research, air pollution control districts and air quality management districts, affected industries, and the public, shall identify and evaluate energy programs which might be used to achieve the forecast of energy use under a least environmental and economic cost scenario, as described in subdivision (c) of Section 25309.1. The programs shall include, but not be limited to, the following:

- (a) Conservation programs.
- (b) Economic and regulatory incentives, including congestion charges.
- (c) Accelerated introduction of nonpetroleum based vehicles and fueling facilities, and accelerated sale of nonpetroleum based fuels.
- (d) Transportation control measures, including energy efficient integrated transportation and land use planning.

§ 25325. Report to Legislature; long-range and interim targets for transportation energy use reduction and fuel diversity; least environmental and economic cost forecast

Based on the information and evaluation developed in Sections 25309.1 and 25324, and consultation with affected public and private entities, the commission shall report the results of the evaluation to the Legislature, including long-range and interim targets for transportation energy use reduction and fuel diversity, which shall be designed to achieve the least environmental and economic cost forecast required pursuant to subdivision (c) of Section 25309.1.

§ 25326. Recharging and refueling infrastructure master plan

(a) The commission, in collaboration with the Department of Transportation, the Public Utilities Commission, and the State Air Resources Board, shall develop a consumer recharging and refueling infrastructure master plan to support development, production, and operation of alternative fuel vehicles. Development of the master plan shall be accomplished in collaboration with air pollution control districts and air quality management districts, regional agencies, counties, cities, public utilities, the private business sector, and alternative fuel vehicle associations and research organizations. The plan shall include, but not be limited to, all of the following:

- (1) Ensuring adequate supplies of clean fuels, including utility capacities and load management options.
- (2) Identifying potential convenient public and private recharging or refueling facilities.
- (3) Developing standard specifications, including design and testing procedures, for charges, electrical components, and refueling outlets.
- (4) Providing customer service, education, and training.
- (5) Exploring development of public quick recharging and refueling networks.
- (6) Recommending electrical code, building code, and other regulatory revisions.
- (7) Initiating strategies to require automobile manufacturers to take responsibility for all support related to original equipment manufactured vehicles, including service, sales, warranties, spare parts, and distribution.
- (8) Considering criteria, as determined by the Legislature and the Public Utilities Commission, governing ratepayer responsibility for utility infrastructure development.

(b) In the development of the master plan, consideration shall be given to the types of clean fuels that are likely to be in use in the foreseeable future in compliance with existing state and federal air quality laws and regulations governing vehicle emission standards. For purposes of this section, clean fuels are fuels designated by the State Air Resources Board for use in low, ultralow, or zero emission vehicles and include, but are not limited to, electricity, ethanol, hydrogen, liquefied petroleum gas, methanol, natural gas, and reformulated gasoline.

(c) The commission shall complete the master plan and report its findings to the Governor and the Legislature, including recommendations and timelines for plan implementation, not later than January 1, 1994.

(d) It is the intent of the Legislature that the activities required pursuant to this section shall be funded from existing resources of the commission

CHAPTER 4.5 PETROLEUM SUPPLY AND PRICING

§ 25350. Legislative finding and declaration

(a) The Legislature finds and declares that the petroleum industry is an essential element of the California economy and is therefore of vital importance to the health and welfare of all Californians.

(b) The Legislature further finds and declares that a complete and thorough understanding of the operations of the petroleum industry is required by state government at all times to enable it to respond to possible shortages, oversupplies, or other disruptions.

(c) The Legislature further finds and declares that information and data concerning all aspects of the petroleum industry, including, but not limited to, crude oil production, supplies, refining, product output, prices, distribution, demand, and investment choices and decisions are essential for the state to develop and administer energy policies which are in the interest of the state's economy and the public's well-being.

§ 25351. Blank

§ 25352. Short title

This chapter shall be known and may be cited as the Petroleum Industry Information Reporting Act of 1980.

§ 25353. Blank

§ 25354. Informational reports; duty; time; scope; powers of commission; alternate reports

(a) Beginning the first month after the effective date of this chapter and each month thereafter, each refiner and major marketer shall submit information to the commission in such form and extent as the commission prescribes pursuant to this section. The information shall be submitted within 30 days after the end of each monthly reporting period and shall include the following:

(1) Refiners shall report, for each of their refineries, feedstock inputs, origin of petroleum receipts, refinery outputs, refinery stocks, and finished product supply and distribution.

(2) Major marketers shall report on petroleum and petroleum product receipts, inventories, and distributions.

(b) Beginning the first month after the effective date of this chapter and annually thereafter, each major oil producer, refiner, marketer, oil transporter, and oil storer shall submit

information to the commission in such form and extent as the commission prescribes pursuant to this section. The information shall be submitted within 30 days after the end of each reporting period, and shall include the following:

(1) Major oil transporters shall report on petroleum by reporting the capacities of each major transportation system, the amount transported by each system, and inventories thereof. The commission may prescribe rules and regulations which exclude pipeline and transportation modes operated entirely on property owned by major oil transporters from the reporting requirements of this section where the data or information is not needed to fulfill the purposes of this chapter. The provision of the information shall not be construed to increase or decrease any authority the Public Utilities Commission may otherwise have.

(2) Major oil storers shall report on storage capacity, inventories, receipts and distributions, and methods of transportation of receipts and distributions.

(3) Major oil producers shall, with respect to thermally enhanced oil recovery operations, report annually by designated oil field, the monthly use, as fuel, of crude oil and natural gas.

(4) Refiners shall report on facility capacity, and utilization and method of transportation of refinery receipts and distributions.

(5) Major oil marketers shall report on facility capacity and methods of transportation of receipts and distributions.

(c) Each person required to report pursuant to subdivision (a) shall submit a projection each month of the information to be submitted pursuant to subdivision (a) for the quarter following the month in which the information is submitted to the commission.

(d) In addition to the data required under subdivision (a), each integrated oil refiner (produces, refines, transports, and markets in interstate commerce) who supplies more than 500 branded retail outlets in California shall submit to the commission an annual industry forecast for Petroleum Administration for Defense, District V (covering Arizona, Nevada, Washington, Oregon, California, Alaska, and Hawaii). The forecast shall include the information to be submitted under subdivision (a), and shall be submitted by March 15 of each year. The commission may require California-specific forecasts. However, those forecasts shall be required only if the commission finds them necessary to carry out its responsibilities.

(e) The commission may by order or regulation modify the reporting period as to any individual item of information setting forth in the order or regulation its reason for so doing.

(f) The commission may request additional information as necessary to perform its responsibilities under this chapter.

(g) Any person required to submit information or data under this chapter may, in lieu thereof, submit a report made to any other governmental agency, provided that:

(1) The alternate report or reports contain all of the information or data required by specific request under this chapter.

(2) The person clearly identifies the specific request to which the alternate report is responsive.

(h) Beginning January 1, 1985, and each month thereafter, each refiner shall submit to the commission, within 30 days after the end of each monthly reporting period, all of the following information in such form and extent as the commission prescribes:

(1) Monthly California weighted average prices and sales volumes of finished leaded regular, unleaded regular, and premium motor gasoline sold through company-operated retail outlets, to other end-users, and to wholesale customers.

(2) Monthly California weighted average prices and sales volumes for residential sales, commercial and institutional sales, industrial sales, sales through company-operated retail outlets, sales to other end-users, and wholesale sales of No. 2 diesel fuel and No. 2 fuel oil.

(3) Monthly California weighted average prices and sales volumes for retail sales and wholesale sales of No. 1 distillate, kerosene, finished aviation gasoline, kerosene-type jet fuel, No. 4 fuel oil, residual fuel oil with 1 percent or less sulfur, residual fuel oil with greater than 1 percent sulfur and consumer grade propane.

(i) Refiners that submit form EIA-800 reports to the United States Department of Energy shall provide to the commission copies of their weekly reports, or equivalent data, for the period from January 1, 1983, to January 1, 1985, and thereafter provide to the commission copies of weekly EIA-800 reports, or equivalent data, once each month through December 31, 1985.

§ 25355. Exemption from reports under Section 25320

Each major oil producer, refiner, and major marketer of petroleum products doing business within this state shall not be required to provide information on petroleum and petroleum products pursuant to Section 25320 during the period that this chapter is in effect if they are providing information pursuant to this chapter.

§ 25356. Analysis of information; audits and inspections

(a) The commission shall, utilizing its own staff and other support staff having expertise and experience in, or with, the petroleum industry, gather, analyze, and interpret the information submitted to it pursuant to Section 25354 and other information relating to the supply and price of petroleum products, with particular emphasis on motor vehicle fuels, including, but not limited to, all of the following:

(1) The nature, cause, and extent of any petroleum or petroleum products shortage or condition affecting supply.

(2) The economic and environmental impacts of any petroleum and petroleum product shortage or condition affecting supply.

(3) Petroleum or petroleum product demand and supply forecasting methodologies utilized by the petroleum industry in California.

(4) The prices, with particular emphasis on retail motor fuel prices, and any significant changes in prices charged by the petroleum industry for petroleum or petroleum products sold in California, and the reasons for those changes.

(5) The profits, both before and after taxes, of the industry as a whole and of major firms within it, including a comparison with other major industry groups and major firms within them as to profits, return on equity and capital, and price-earnings ratio.

(6) The emerging trends relating to supply, demand, and conservation of petroleum and petroleum products.

(7) The nature and extent of efforts of the petroleum industry to expand refinery capacity and to make acquisitions of additional supplies of petroleum and petroleum products, including activities relative to the exploration, development, and extraction of resources within the state.

(8) The development of a petroleum and petroleum products information system in a manner which will enable the state to take action to meet and mitigate any petroleum or petroleum products shortage or condition affecting supply.

(b) The commission shall analyze the impacts of state and federal policies and regulations upon the supply and pricing of petroleum products.

§ 25357. Analysis of production reports

The commission shall obtain and analyze monthly production reports prepared by the State Oil and Gas Supervisor pursuant to Section 3227.

§ 25358. Summary, analysis and interpretation of information; reports

(a) Within 70 days after the end of each preceding quarter of each calendar year, the commission shall publish and submit to the Governor and the Legislature a summary, an analysis, and an interpretation of the information submitted to it pursuant to Section 25354 and information reviewed pursuant to Section 25357. This report shall be separate from the report submitted pursuant to Section 25322. Any person may submit comments in writing regarding the accuracy or sufficiency of the information submitted.

(b) The commission shall prepare a biennial assessment of the information provided pursuant to this chapter and shall include its assessment in the biennial fuels report prepared pursuant to Section 25310.

(c) The commission may use reasonable means necessary and available to it to seek and obtain any facts, figures, and other information from any source for the purpose of preparing and providing reports to the Governor and the Legislature. The commission shall specifically include in such reports its analysis of any unsuccessful attempts in obtaining information from potential sources, including the lack of cooperation or refusal to provide information.

(d) Whenever the commission fails to provide any report required pursuant to this section within the specified time, it shall provide to all members of the Legislature, within five days of such specified time, a detailed written explanation of the cause of any such delay.

§§ 25359 to 25361. Blank

§ 25362. Failure to timely provide information; notice; false statements; civil penalties; person

(a) The commission shall notify those persons who have failed to timely provide the information specified in Section 25354. If, within five days after being notified of the failure to provide the specified information, the person fails to supply the specified information, the person shall be subject to a civil penalty of not less than five hundred dollars (\$500) nor more than two thousand dollars (\$2,000) per day for each day the submission of information is refused or delayed, unless the person has timely filed objections with the commission regarding the information and the commission has not yet held a hearing on the matter, or the commission has held a hearing and the person has properly submitted the issue to a court of competent jurisdiction for review.

(b) Any person who willfully makes any false statement, representation, or certification in any record, report, plan, or other document filed with the commission shall be subject to a civil penalty not to exceed two thousand dollars (\$2,000).

(c) For the purpose of this section, the term "person" shall mean, in addition to the definition contained in Section 25116, any responsible corporate officer.

§ 25363. Blank

§ 25364. Confidential information

(a) Any person required to present information or data to the commission pursuant to Section 25354 may request that specific information be held in confidence.

(b) Information presented to the commission pursuant to Section 25354 shall be held in confidence by the commission or aggregated to the extent necessary to assure confidentiality if public disclosure of the specific information or data would result in unfair competitive disadvantage to the person supplying the information.

(c)(1) Whenever the commission receives a request to publicly disclose unaggregated information or otherwise proposes to publicly disclose information submitted pursuant to Section 25354, notice of the request or proposal shall be provided to the person submitting the information. The notice shall indicate the form in which the information is to be released. Upon receipt of notice, the person submitting the information shall have 10 working days in which to respond to the notice to justify the claim of confidentiality on each specific item of information covered by the notice on the basis that public disclosure of the specific information would result in unfair competitive disadvantage to the person supplying the information.

(2) The commission shall consider the respondent's submittal in determining whether to publicly disclose the information submitted to it to which a claim of confidentiality is

made. The commission shall issue a written decision which sets forth its reasons for making the determination whether each item of information for which a claim of confidentiality is made shall remain confidential or shall be publicly disclosed.

(d) The commission shall not make public disclosure of information submitted to it pursuant to Section 25354 within 10 working days after the commission has issued its written decision required in this section.

(e) No information submitted to the commission pursuant to Section 25354 shall be deemed confidential if the person submitting the information or data has made it public.

(f) With respect to information provided pursuant to subdivision (h) of Section 25354, neither the commission, nor any employee of the commission, may do any of the following.

(1) Use the information furnished under subdivision (h) of Section 25354 for any purpose other than the statistical purposes for which it is supplied.

(2) Make any publication whereby the information furnished by any particular establishment or individual under subdivision (h) of Section 25354 can be identified.

(3) Permit anyone other than commission members and employees of the commission to examine the individual reports provided under subdivision (h) of Section 25354.

(g) Notwithstanding any other provision of law, the commission may disclose confidential information received pursuant to subdivision (a) of Section 25310.4 or Section 25354 to the State Air Resources Board if the state board agrees to keep the information confidential. With respect to the information it receives, the state board shall be subject to all pertinent provisions of this section.

§ 25365. Blank

§ 25366. Confidential information obtained by another state agency

Any confidential information pertinent to the responsibilities of the commission specified in this division which is obtained by another state agency shall be available to the commission and shall be treated in a confidential manner.

§ 25367. Blank

§ 25368. Repealed

CHAPTER 4.7 MOTOR VEHICLE FUEL CONSERVATION [Repealed]

§§25370 to 25381 Repealed

CHAPTER 4.9 LOCAL ENERGY CONSERVATION PROGRAMS SECTION [Repealed]

§§ 25390 to 25395. Repealed

CHAPTER 5. ENERGY RESOURCES CONSERVATION

§ 25400. Assessment of forms of energy; encouragement of balanced use of resources

The commission shall conduct an ongoing assessment of the opportunities and constraints presented by all forms of energy. The commission shall encourage the balanced use of all sources of energy to meet the state's needs and shall seek to avoid possible undesirable consequences of reliance on a single source of energy.

§ 25401. Continuous studies, projects, etc.; reduction in wasteful, inefficient, etc., uses; potential sources

The commission shall continuously carry out studies, research projects, data collection, and other activities required to assess the nature, extent, and distribution of energy resources to meet the needs of the state, including but not limited to fossil fuels and solar, nuclear, and geothermal energy resources. It shall also carry out studies, technical assessments, research projects, and data collection directed to reducing wasteful, inefficient, unnecessary, or uneconomic uses of energy, including, but not limited to, all of the following:

- (a) Pricing of electricity and other forms of energy.
- (b) Improved building design and insulation.
- (c) Restriction of promotional activities designed to increase the use of electrical energy by consumers.
- (d) Improved appliance efficiency.
- (e) Advances in power generation and transmission technology.
- (f) Comparisons in the efficiencies of alternative methods of energy utilization.

The Commission shall survey pursuant to this section all forms of energy on which to base its recommendations to the Governor and Legislature for elimination of waste or increases in efficiency for sources or uses of energy. The commission shall transmit to the Governor and the Legislature, as part of the biennial report specified in Section 25309, recommendations for state policy and actions for the orderly development of all potential sources of energy to meet the state's needs, including, but not limited to, fossil fuels and solar, nuclear, and geothermal energy resources, and to reduce wasteful and inefficient uses of energy.

§ 25401.1. Biennial report of emerging energy conservation trends

Commencing October 1, 1986, and every two years thereafter, the commission shall prepare and submit to the Governor and the Legislature a report which identifies emerging trends within the residential, commercial, industrial, agricultural, and transportation sectors of the state's

economy related to energy conservation, specifies the level of statewide and service area energy conservation reasonably expected to occur in the forthcoming 5-, 12-, and 20-year periods determined pursuant to subdivision (c) of Section 25305, and indicates the potential for additional achievable energy conservation for the same periods. The report shall also identify improvements or alternatives to existing governmental and private programs and policies which would permit fuller realization of the potential for energy conservation either through direct programmatic actions or facilitation of the market. The report shall recommend legislative and administrative actions, programs, and policies designed to attain reasonably expected to occur and additional achievable, cost-effective, energy conservation. A preliminary report addressing selected program areas shall be adopted on or before October 1, 1985.

§ 25401.2 Inventory of cost-effective opportunities to improve efficiencies

(a) As part of the biennial energy conservation report required by Section 25401.1, the commission shall develop and update an inventory of current and potential cost-effective opportunities in each utility's service territory, to improve efficiencies and to help utilities manage loads in all sectors of natural gas and electricity use. The report shall include estimates of the overall magnitude of these resources, load shapes, and the projected costs associated with delivering the various types of energy savings that are identified in the inventory. The report shall also estimate the amount and incremental cost per unit of potential energy efficiency and load management activities. Where applicable, the inventory shall include data on variations in savings and costs associated with particular measures. The report shall take into consideration environmental benefits as developed in related commission and public utilities commission proceedings.

(b) The commission shall develop and maintain the inventory in consultation with electric and gas utilities, the Public Utilities Commission, academic institutions, and other interested parties.

(c) The commission shall convene a technical advisory group to develop an analytic framework for the inventory, to discuss the level of detail at which the inventory would operate, and to ensure that the inventory is consistent with other demand-side data bases. Privately owned electric and gas utilities shall provide financial support, gather data, and provide analysis for activities that the technical advisory group recommends. The technical advisory group shall terminate on January 1, 1993.

§ 25402. Duties of commission; hearings; standards; appliances to display date of manufacture

The commission shall, after one or more public hearings, do all of the following, in order to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy:

(a) Prescribe, by regulation, lighting, insulation climate control system, and other building design and construction standards which increase the efficiency in the use of energy for new residential and new nonresidential buildings. The standards shall be cost effective, when taken in their entirety, and when amortized over the economic life of the structure when compared with historic practice. The commission shall periodically update the standards and adopt any revision which, in its judgment, it deems necessary. Six months after the commission certifies an energy conservation manual pursuant to subdivision (c) of Section 25402.1, no city, county, city and county,

or state agency shall issue a permit for any building unless the building satisfies the standards prescribed by the commission pursuant to this subdivision or subdivision (b) of this section which are in effect on the date an application for a building permit is filed.

(b) Prescribe, by regulation, energy conservation design standards for new residential and new nonresidential buildings. The standards shall be performance standards and shall be promulgated in terms of energy consumption per gross square foot of floorspace, but may also include devices, systems, and techniques required to conserve energy. The standards shall be cost effective when taken in their entirety, and when amortized over the economic life of the structure when compared with historic practices. The commission shall periodically review the standards and adopt any revision which, in its judgment, it deems necessary. A building that satisfies the standards prescribed pursuant to this subdivision need not comply with the standards prescribed pursuant to subdivision (a) of this section. The commission shall comply with the provisions of this subdivision before January 1, 1981.

(c)(l) Prescribe, by regulation, standards for minimum levels of operating efficiency, based on a reasonable use pattern, and may prescribe other cost-effective measures, including incentive programs, fleet averaging, energy consumption labelling not preempted by federal labeling, and consumer education programs, to promote the use of energy efficient appliances whose use, as determined by the commission, requires a significant amount of energy on a statewide basis. The minimum levels of operating efficiency shall be based on feasible and attainable efficiencies or feasible improved efficiencies which will reduce the electrical energy consumption growth rate. The standards shall become effective no sooner than one year after the date of adoption or revision. No new appliance manufactured on or after the effective date of the standards may be sold or offered for sale in the state, unless it is certified by the manufacturer thereof to be in compliance with the standards. The standards shall be drawn so that they do not result in any added total costs to the consumer over the designed life of the appliances concerned.

(2) No new appliance, except for any plumbing fitting, regulated under paragraph (1), which is manufactured on or after July 1, 1984, may be sold, or offered for sale, in the state, unless the date of the manufacture is permanently displayed in an accessible place on that appliance.

(3) During the period of five years after the commission has adopted a standard for a particular appliance, under paragraph (1), no increase or decrease in the minimum level of operating efficiency required by the standard for that appliance shall become effective, unless the commission adopts other cost-effective measures for that appliance.

(4) Neither the commission nor any other state agency shall take any action to decrease any standard adopted under this subdivision on or before June 30, 1985, prescribing minimum levels of operating efficiency or other energy conservation measures for any appliance, unless the commission finds by a four-fifths vote that such a decrease is of benefit to ratepayers, and that there is significant evidence of changed circumstances. Prior to January 1, 1986, the commission shall not take any action to increase any standard prescribing minimum levels of operating efficiency for any appliance or adopt any new standard under paragraph (1). Prior to January 1, 1986, any appliance manufacturer doing business in this state shall provide directly, or through an appropriate trade or industry association, information, as specified by the commission after consultation with manufacturers doing business in the state and appropriate trade or industry associations on sales of appliances so that the commission may study the effects of regulations on

those sales. These informational requirements shall remain in effect until the information is received. The trade or industry association may submit sales information in an aggregated form in a manner that allows the commission to carry out the purposes of the study. The commission shall treat any sales information of an individual manufacturer as confidential and that information shall not be a public record. The commission shall not request any information that cannot be reasonably produced in the exercise of due diligence by the manufacturer. At least one year prior to the adoption or amendment of a standard for an appliance, the commission shall notify the Legislature of its intent, and the justification therefor, to adopt or amend a standard for the appliance. Notwithstanding paragraph (3) and this paragraph, the commission may do any of the following:

(A) Increase the minimum level of operating efficiency in an existing standard up to the level of the National Voluntary Consensus Standards 90, adopted by the American Society of Heating, Refrigeration, and Air Conditioning Engineers or, for appliances not covered by that standard, up to the level established in a similar nationwide consensus standard.

(B) Change the measure or rating of efficiency of any standard, if the minimum level of operating efficiency remains substantially the same.

(C) Adjust the minimum level of operating efficiency in an existing standard in order to reflect changes in test procedures that the standards require manufacturers to use in certifying compliance, if the minimum level of operating efficiency remains substantially the same.

(D) Readopt a standard preempted, enjoined, or otherwise found legally defective by an administrative agency or a lower court, if final legal action determines that the standard is valid and if the standard which is readopted is not more stringent than the standard that was found to be defective or preempted.

(E) Adopt or amend any existing or new standard at any level of operating efficiency, if the Governor has declared an energy emergency pursuant to Section 8558 of the Government Code.

(5) Notwithstanding paragraph (4), the commission may adopt standards pursuant to commission order No. 84-0111-1, on or before June 30, 1985.

(d) Recommend minimum standards of efficiency for the operation of any new facility at a particular site which are technically and economically feasible. No site and related facility shall be certified pursuant to Chapter 6 (commencing with Section 25500), unless the applicant certifies that standards recommended by the commission have been considered, which certification shall include a statement specifying the extent to which conformance with the recommended standards will be achieved.

Whenever the provisions of this section and the provisions of Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code are in conflict, the commission shall be governed by the provisions of that chapter of the Health and Safety Code to the extent of conflict.

§ 25402.1. Duties of commission; public domain computer program; certification process; manual, sample calculations and model structural designs; technical assistance program; enforcement and resolutions

In order to implement the requirements of subdivisions (a) and (b) of Section 25402, the commission shall do all of the following:

(a) Develop a public domain computer program which will enable contractors, builders, architects, engineers, and government officials to estimate the energy consumed by residential and nonresidential buildings. The commission may charge a fee for the use of the program, which fee shall be based upon the actual cost of the program, including any computer costs.

(b) Establish a formal process for certification of compliance options for new products, materials, and calculation methods which provides for adequate technical and public review to ensure accurate, equitable, and timely evaluation of certification applications. Proponents filing applications for new products, materials, and calculation methods shall provide all information needed to evaluate the application that is required by the commission. The commission shall publish annually the results of its certification decisions and instructions to users and local building officials concerning requirements for showing compliance with the building standards for new products, materials, or calculation methods. The commission may charge and collect a reasonable fee from applicants to cover the costs under this subdivision. Any funds received by the commission for purposes of this subdivision shall be deposited in the Energy Resources Programs Account and, notwithstanding Section 13340 of this Government Code, are continuously appropriated to the commission for the purposes of this subdivision. Any unencumbered portion of funds collected as a fee for an application remaining in the Energy Resources Programs Account after completion of the certification process for that application shall be returned to the applicant within a reasonable period of time.

(c) Include a prescriptive method of complying with the standards, including design aids such as a manual, sample calculations, and model structural designs.

(d) Conduct a pilot project of field testing of actual residential buildings to calibrate and identify potential needed changes in the modeling assumptions to increase the accuracy of the public domain computer program specified in subdivision (a) and to evaluate the impacts of the standards, including, but not limited to, the energy savings, cost effectiveness, and the effects on indoor air quality. The pilot project shall be conducted pursuant to a contract entered into by the commission. The commission shall consult with the participants designated pursuant to Section 9202 of the Public Utilities Code to seek funding and support for field monitoring in each public utility service territory, with the University of California to take advantage of its extensive building monitoring expertise, and with the California Building Industry Association to coordinate the involvement of builders and developers throughout the state. The pilot project shall include periodic public workshops to develop plans and review progress. The commission shall prepare and submit a report to the Legislature on progress and initial findings not later than December 31, 1988, and a final report on the results of the pilot project on residential buildings not later than June 30, 1990. The report shall include recommendations regarding the need and feasibility of conducting further monitoring of actual residential and nonresidential buildings. The report shall also identify any revisions to the public domain computer program and energy conservation standards if the pilot project determines that revisions are appropriate.

(e) Certify, not later than 180 days after approval of the standards by the State Building Standards Commission, an energy conservation manual for use by designers, builders, and

contractors of residential and nonresidential buildings. The manual shall be furnished upon request at a price sufficient to cover the costs of production and shall be distributed at no cost to all affected local agencies. The manual shall contain, but not be limited to, the following:

- (1) The standards for energy conservation established by the commission.
- (2) Forms, charts, tables, and other data to assist designers and builders in meeting the standards.
- (3) Design suggestions for meeting or exceeding the standards.
- (4) Any other information which the commission finds will assist persons in conforming to the standards.
- (5) Instructions for use of the computer program for calculating energy consumption in residential and nonresidential buildings.
- (6) The prescriptive method for use as an alternative to the computer program.
- (f) The commission shall establish a continuing program of technical assistance to local building departments in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The program shall include the training of local officials in building technology and enforcement procedures related to energy conservation, and the development of complementary training programs conducted by local governments, educational institutions, and other public or private entities. The technical assistance program shall include the preparation and publication of forms and procedures for local building departments in performing the review of building plans and specifications. The commission shall provide, on a contract basis, a review of building specifications. The commission shall provide, on a contract basis, a review of building plans and specifications submitted by a local building department, and shall adopt a schedule of fees sufficient to repay the cost of those services.
- (g) Subdivision (a) and (b) of Section 25402 and this section, and the rules and regulations of the commission adopted pursuant thereto, shall be enforced by the building department of every city, county, or city and county.
- (1) No building permit for any residential or nonresidential building shall be issued by a local building department, unless a review by the building department of the plans for the proposed residential or nonresidential building contains detailed energy system specifications and confirms that the building satisfies the minimum standards established pursuant to subdivision (a) or (b) of Section 25402 and this section applicable to the building.
- (2) Where there is no local building department, the commission shall enforce subdivisions (a) and (b) of Section 25402 and this section.
- (3) If a local building department fails to enforce subdivisions (a) and (b) of Section 25402 and this section or any other provision of this chapter or standard adopted pursuant thereto, the commission may provide enforcement after furnishing 10 days' written notice to the local building department.

(4) A city, county, or city and county may, by ordinance or resolution, prescribe a schedule of fees sufficient to pay the costs incurred in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The commission may establish a schedule of fees sufficient to pay the costs incurred by that enforcement.

(5) No construction of any state building shall commence until the Department of General Services or the state agency that otherwise has jurisdiction over the property reviews the plans for the proposed building and certifies that the plans satisfy the minimum standards established pursuant to subdivision (a) or (b) of Chapter 2.8 (commencing with Section 15814.30) of Part 10b of Division 3 of Title 2 of the Government Code, Section 25402, and this section which are applicable to the building.

(h) Subdivisions (a) and (b) of Section 25402 and this section shall apply only to new residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of rules and regulations adopted pursuant to those sections that are applicable to those buildings. Nothing in those sections shall prohibit either of the following:

(1) The enforcement of state or local energy conservation or energy insulation standards, adopted prior to the effective date of rules and regulations adopted pursuant to subdivision (a) and (b) of Section 25402 and this section with regard to residential and nonresidential buildings on which actual site preparation and construction have commenced prior to that date.

(2) The enforcement of city or county energy conservation or energy insulation standards, whenever adopted, with regard to residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of the rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section, if the city or county files the basis of its determination that the standards are cost effective with the commission and the commission finds that the standards will require the diminution of energy consumption levels permitted by the rules and regulations adopted pursuant to those section. If, after two or more years after the filing with the commission of the determination that those standards are cost effective, there has been a substantial change in the factual circumstances affecting the determination, upon application by any interested party, the city or county shall update and file a new basis of its determination that the standards are cost effective. The determination that the standards are cost effective shall be adopted by the governing body of the city or county at a public meeting. If, at the meeting on the matter, the governing body determines that the standards are no longer cost effective, the standards shall, as of that date, be unenforceable and no building permit or other entitlement shall be denied based on the noncompliance with the standards.

(i) The commission may exempt from the requirements of this section and of any regulations adopted pursuant thereto any proposed building for which compliance would be impossible without substantial delays and increases in cost of construction, if the commission finds that substantial funds have been expended in good faith on planning, designing, architecture or engineering prior to the date of adoption of the regulations.

(j) If a dispute arise between an applicant for a building permit, or the state pursuant to paragraph (5) of subdivision (g), and the building department regarding interpretation of Section 25402 or the regulations adopted pursuant thereto, either party may submit the dispute

to the commission for resolution. The commission's determination of the matter shall be binding on the parties.

(k) Nothing in Section 25130, 25131, or 25402, or in this section prevents enforcement of any regulation adopted pursuant to this chapter, or Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code as they existed prior to September 16, 1977.

§ 25402.2. Building standards

Any standard adopted by the commission pursuant to Sections 25402 and 25402.1, which is a building standard as defined in Section 25488.5, shall be submitted to the State Building Standards Commission for approval pursuant to, and is governed by, the State Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code). Building standards adopted by the commission and published in the State Building Standards Code shall be enforced as provided in Section 25402 and 25402.1.

§ 25402.3 Regional training centers for local building officials and enforcement personnel; locations; sessions; workshops for rural areas

For purposes of subdivision (e) of Section 25402.1, the commission shall contract with California building officials to establish two regional training centers to provide continuing education for local building officials and enforcement personnel as follows:

(a) One site shall be located in northern California and one site shall be located in southern California to serve the needs of the respective regions.

(b) The centers shall provide training on a monthly basis to ensure a uniform understanding and implementation of the energy efficient building standards. Existing resources shall be used as much as possible by utilizing members of the building official community in training activities.

(c) The centers shall provide similar training sessions, in the form of workshops given in designated rural areas, to ensure that adequate training is available throughout the state.

(1) A minimum of two workshops in northern California and two workshop in southern California shall be offered each year.

(2) The sites shall be selected to ensure the greatest number of participants will be served in areas of greatest need to decrease the financial burden on small rural or isolated local government agencies that would not be able to travel to the regional training centers for instruction.

§ 25402.4. Nonresidential building standards; option using passive or semipassive thermal systems; construction techniques

The standards for nonresidential buildings prescribed by the commission pursuant to subdivisions (a) and (b) of Section 25402 shall provide at least one option which uses passive or semipassive thermal systems, as defined in Section 25600, for meeting the prescribed energy

use requirements. These systems may include but are not limited to, the following construction techniques:

- (a) Use of skylights or other daylighting techniques.
- (b) Use of openable windows or other means of using outside air for space conditioning.
- (c) Use of building orientation, to complement other passive or semipassive thermal systems.
- (d) Use of thermal mass, of structural or nonstructural type, for storage of heat or cold; including, but not limited to, roof ponds and water walls.

§ 25402.5. Lighting devices.

(a) As used in this section, "lighting device" includes, but is not limited to, a lamp, luminaire, light fixture, lighting control, ballast, or any component of those devices.

(b)(1) The commission shall consider both new and replacement, and both interior and exterior, lighting devices as lighting which is subject to subdivision (a) of Section 25402.

(2) The commission shall include both indoor and outdoor lighting devices as appliances to be considered in prescribing standards pursuant to paragraph (1) of subdivision (c) of Section 25402.

(3) The Legislature hereby finds and declares that paragraphs (1) and (2) are declarative of existing law.

(c)(1) The commission shall establish an advisory group to provide technical advice, and, after public review, shall prepare and submit a report to the Legislature on or before January 1, 1997, identifying which lighting devices, whether indoor or outdoor, and residential or commercial, may be appropriate either for the commission to include in lighting efficiency regulations and other state energy or lighting efficiency programs or for federal government consideration in setting national lighting efficiency standards. The advisory group shall include, but not be limited to, representatives of the Illuminating Engineering Society of North America, the International Association of Lighting Designers, the National Electrical Manufacturers Association, the Association of Professional Energy Managers, the Lighting Research Institute, the Electric Power Research Institute, the Natural Resources Defense Council, the Department of Energy, the Environmental Protection Agency, and California's electric utilities. No state funds shall be used to support the advisory group.

(2) The commission's report and recommendations shall identify proposed lighting efficiency regulations, standards, or programs that are technologically feasible and cost-effective and that would result in a significant level of energy savings. The report shall emphasize, but not be limited to, residential lighting efficiency, and shall consider requiring manufacturers of light fixtures to produce fixtures which are physically compatible with fluorescent lamps. The report shall also consider educational and labeling programs that could help increase the use of efficient lighting devices.

(d)(1) To the extent not preempted by federal law, on or before February 1, 1997, the commission shall initiate a formal rulemaking proceeding, including public review and hearings, to consider efficiency standards for lighting devices as recommended in the report required by subdivision (c). Any regulations issued pursuant to this paragraph shall be subject to the requirements of paragraph (1) of subdivision (c) of Section 25402.

(2) The commission may also actively participate in proceedings of the Department of Energy concerning the development and adoption of national lighting efficiency standards as recommended in the report.

§ 25402.8. Indoor air pollution; new building standards; review of existing building standards; consultations and considerations; completion date

When assessing new building standards for residential and nonresidential buildings relating to the conservation of energy, the commission shall include in its deliberations the impact that those standards would have on indoor air pollution problems.

§ 25402.9. Home energy rating program, informational booklet

(a) On or before July 1, 1996, the commission shall develop, adopt, and publish an informational booklet to educate and inform homeowners, rental property owners, renters, sellers, brokers, and the general public about the statewide home energy rating program adopted pursuant to Section 25942.

(b) In the development of the booklet, the commission shall consult with representatives of the Department of Real Estate, the Department of Housing and Community Development, the Public Utilities Commission, investor-owned and municipal utilities, cities and counties, real estate licensees, home builders, mortgage lenders, home appraisers and inspectors, home energy rating organizations, contractors who provide home energy services, consumer groups, and environmental groups.

(c) The commission shall charge a fee for the informational booklet to recover its costs under subdivision (a).

§ 25403. Recommendations on energy consumption; submission to public agencies; reports

The commission shall submit to the Public Utilities Commission and to any publicly owned electric utility, recommendations designed to reduce wasteful, unnecessary, or uneconomic energy consumption resulting from practices including, but not limited to, differential rate structures, cost-of-service allocations, the disallowance of a business expense of advertising or promotional activities which encourage the use of electrical power, peakload pricing, and other pricing measures. The Public Utilities Commission or publicly owned electric utility shall review and consider such recommendations and shall, within six months after the date it receives them, as prescribed by this section, report to the Governor and the Legislature its actions and reasons therefor with respect to such recommendations.

§ 25403.5. Electrical load management; adoption of standards; costs of compliance as rate base factor; exemptions or delays; findings

The commission shall, by July 1, 1978, adopt standards by regulation for a program of electrical load management for each utility service area. In adopting the standards, the commission shall consider, but need not be limited to, the following load management techniques:

(1) Adjustments in rate structure to encourage use of electrical energy at off-peak hours or to encourage control of daily electrical load. Compliance with such changes in rate structure shall be subject to the approval of the Public Utilities Commission in a proceeding to change rates or service.

(2) End use storage systems which store energy during off-peak periods for use during peak periods.

(3) Mechanical and automatic devices and systems for the control of daily and seasonal peakloads.

The standards shall be cost effective when compared with the costs for new electrical capacity, and the commission shall find them to be technologically feasible. Any expense or any capital investment required of a utility by the standards shall be an allowable expense or an allowable item in the utility rate base and shall be treated by the Public Utilities Commission as such in a rate proceeding.

The commission may determine that one or more of such techniques are infeasible and may delay their adoption. If the commission determines that any techniques are infeasible to implement, it shall make a finding in each instance stating the grounds upon which the determination was made and the actions it intends to take to remove the impediments to implementation. The commission's findings shall be published and forwarded to the Governor and the Legislature.

The commission may also grant, upon application by a utility, an exemption from the standards or a delay in implementation. The grant of an exemption or delay shall be accompanied by a statement of findings by the commission indicating the grounds for the exemption or delay. Exemption or delay shall be granted only upon a showing of extreme hardship, technological infeasibility, lack of cost effectiveness, or reduced system reliability and efficiency.

This section does not apply to proposed sites and related facilities for which a notice of intent or an application requesting certification has been filed with the commission prior to the effective date of the standards.

§ 25404. Cooperation with interested parties; environmental impact reports

The commission shall cooperate with the Office of Planning and Research, the Resources Agency and other interested parties in developing procedures to ensure that mitigation measures to minimize wasteful, inefficient, and unnecessary consumption of energy are included in all environmental impact reports required on local projects as specified in Section 21151.

§ 25405. Schedule of fees

A city, county, or city and county may by ordinance or resolution prescribe a schedule of fees sufficient to pay the costs incurred in the enforcement of standards adopted pursuant to this chapter.

§ 25406. Repealed

CHAPTER 5.2 ENERGY CONSERVATION ASSISTANCE

§ 25410. Short title

This chapter shall be known and may be cited as the Energy Conservation Assistance Act of 1979.

§ 25410.5. Legislative finding; local government energy cost

The Legislature finds and declares all of the following:

(a) Energy costs are frequently the second largest discretionary expense in a local government's budget. According to the commission, most public institutions could reduce their energy costs by 20 to 30 percent.

(b) A variety of energy conservation measures are available to local governments. These measures are highly cost-effective, often providing a payback on the initial investment in three years or less.

(c) Many local governments lack energy management expertise and are often unaware of their high energy costs or the opportunities to reduce those costs.

(d) Local governments that desire to reduce their energy costs through energy conservation and efficiency measures often lack available funding.

(e) Since 1980, the Energy Conservation Assistance Account has provided \$43.7 million in loans, through a revolving loan account, to 323 schools, hospitals, and local governments. The energy conservation projects funded by the account save approximately \$20 million annually in energy costs.

(f) Local governments and public institutions need assistance in all aspects of energy efficiency improvements, including project identification, project development and implementation, operations and maintenance, and troubleshooting.

§ 25410.6. Legislative intent; administration of the state energy conservation assistance account

(a) It is the intent of the Legislature that the commission shall administer the State Energy Conservation Assistance Account to provide grants and loans to local governments and public institutions to maximize energy use savings, including, but not limited to, technical

assistance, demonstrations, and identification and implementation of cost-effective energy efficiency measures and programs.

(b) It is further the intent of the Legislature that the commission seek the assistance of utility companies in providing energy audits for local governments and public institutions and in publicizing the availability of State Energy Conservation Assistance Account funds to qualified entities.

§ 25411. Definitions

As used in this chapter:

(a) "Allocation" means a loan of funds by the commission pursuant to the procedures specified in this chapter.

(b) "Building" means any occupied structure which includes a heating or cooling system, or both. Additions to an original building shall be considered part of that building rather than a separate building.

(c) "Eligible institution" means a school, hospital, public care institution, or a unit of local government.

(d) "Energy audit" means a determination of the energy consumption characteristics of a building or facility which does all of the following:

(1) Identifies the type, size, and energy use level of such building or facility and the major energy using systems of such building or facility.

(2) Determines appropriate energy conservation maintenance and operating procedures.

(3) Indicates the need, if any, for the acquisition and installation of energy conservation measures.

(e) "Energy conservation maintenance and operating procedure" means a modification or modifications in the maintenance and operations of a building or facility, and any installations therein (based on the use time schedule of the building or facility), which are designed to reduce energy consumption in such building or facility and which require no significant expenditure of funds.

(f) "Energy conservation measure" means an installation or modification of an installation in a building or facility which is primarily intended to reduce energy consumption or allow the use of a more desirable energy source.

(g) "Energy conservation project" means an undertaking to acquire and to install one or more energy conservation measures in a building or facility, and technical assistance in connection with any such undertaking.

(h) "Facility" means any major energy using system of an eligible institution whether or not housed in a building.

(i) "Hospital" means a public or nonprofit institution which is:

(1) A general hospital, tuberculosis hospital, or any other type of hospital, other than a hospital furnishing primarily domiciliary care; and

(2) Duly authorized to provide hospital services under the laws of this state.

(j) "Hospital building" means a building housing a hospital and related operations, including laboratories, laundries, outpatient departments, nurses' home and training activities, and central service operations in connection with a hospital, and also includes a building housing education or training activities for health professions personnel operated as an integral part of a hospital.

(k) "Local government building" means a building which is owned and primarily occupied by offices or agencies of a unit of local government or by a public care institution and shall not include any building intended for seasonal use or any building used primarily by a school or hospital.

(l) "Project" means a purpose for which an allocation may be requested and made under this chapter. Such purposes shall include energy audits, energy conservation and operating procedures, energy conservation measures, energy conservation projects, and technical assistance programs.

(m) "Public care institution" means a public or nonprofit institution which owns:

(1) A long-term care institution.

(2) A rehabilitation institution.

(3) An institution for the provision of public health services, including related publicly owned services such as laboratories, clinics, and administrative offices operated in connection with such an institution.

(4) A residential child care center.

(n) "Public or nonprofit institution" means an institution owned and operated by:

(1) The state, a political subdivision of the state, or an agency or instrumentality of either.

(2) An organization exempt from income tax under Section 501(c)(3) of the Internal Revenue Code of 1954.

(3) In the case of public care institutions, an organization also exempt from income tax under Section 501(c)(4) of the Internal Revenue Code of 1954.

(o) "School" means a public or nonprofit institution, including a local educational agency, which:

(1) Provides, and is legally authorized to provide, elementary education or secondary education, or both, on a day or residential basis.

(2) Provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis and:

(A) Admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate.

(B) Is accredited by a nationally recognized accrediting agency or association.

(C) Provides an education program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program which is acceptable for full credit toward such a degree at any institution which meets the requirements of paragraphs (A) and (B) and which provides such a program.

(3) Provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of (2).

(p) "School building" means a building housing classrooms, laboratories, dormitories, athletic facilities, or related facilities operated in connection with a school.

(q) "Technical assistance costs" means costs incurred for the use of existing personnel or the temporary employment of other qualified personnel (or both such types of personnel) necessary for providing technical assistance.

(r) "Technical assistance program" means assistance to schools, hospitals, local government, and public care institutions for:

(1) Conducting specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of:

(A) Modification of maintenance and operating procedures in a building or facility, in addition to those modifications implemented after the preliminary energy audit, or

(B) Acquisition and installation of one or more specified energy conservation measures in such building or facility, or as a result of both.

(2) Planning of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in such building or facility.

(s) "Unit of local government" means a unit of general purpose government below the state or a special district.

§ 25412. Application for an allocation

Any eligible institution may submit an application to the commission for an allocation for the purpose of financing all or a portion of the costs incurred in implementing a project. The application shall be in such form and contain such information as the commission shall prescribe.

An application may be for the purpose of financing the eligible institution's share of such costs which are to be jointly funded through a state, local, or federal-local program.

§ 25412.5. Street lighting; conversion to sodium vapor lights; loans to local governments

The commission may make loans pursuant to this chapter to local governments owning, or leasing from entities other than privately owned electrical utilities, street lighting systems for purposes of converting the system from incandescent or mercury vapor lamps to sodium vapor lamps or other lighting system equivalent to a sodium vapor system in energy efficiency. Only such refitting programs which convert to sodium vapor lamps or their equivalent in energy efficiency providing comparable illumination shall be eligible for such loan program, it being the purpose and intent of this program to effect the maximum energy savings rather than to increase the amount of light produced by any street lamp. The commission shall provide for loan repayment on the basis of life-cycle cost effectiveness of such conversions in a manner which distinguishes between savings of electricity purchased from a utility and savings realized by local governments which operate electrical systems and thereby furnish electricity for the operation of streetlights.

§ 25413. Approval of application; information on savings in cost of energy; priority

Applications may be approved by the commission only in those instances where the eligible institution has furnished information satisfactory to the commission that the costs of the project, plus interest on state funds loaned, calculated in accordance with Section 25415, will be recovered through savings in the cost of energy to such institution during the repayment period of the allocation.

The commission shall give priority to applications which, based on anticipated savings in the cost of energy, will most rapidly recover the cost of the allocation.

§ 25414. Computation of cost of energy saved

Annually at the conclusion of each fiscal year, but not later than October 31, each eligible institution which has received an allocation pursuant to the provisions of this chapter shall compute the cost of the energy saved as a result of implementing a project funded by such allocation. Such cost shall be calculated in a manner prescribed by the commission.

§ 25415. Repayment of allocation; interest; budget

(a) Each eligible institution to which an allocation has been made under this chapter shall repay the principal amount of the allocation, plus interest, in not more than 22 equal semiannual payments, as determined by the commission. The first semiannual payment shall be made on or before December 22 of the fiscal year following the year in which the project is completed.

(b) Notwithstanding any other provision of law, the commission shall, unless it determines that the purposes of this chapter would be better served by establishing an alternative

interest rate schedule, periodically set interest rates on the loans based on surveys of existing financial markets and at rates not lower than the Pooled Money Investment Account.

(c) The governing body of each eligible institution shall annually budget an amount at least sufficient to make the semiannual payments required in this section. The amount shall not be raised by the levy of additional taxes but shall instead be obtained by a savings in energy costs.

§ 25416. State energy conservation assistance account; deposits; disbursements

(a) The State Energy Conservation Assistance Account is hereby created in the General Fund. Notwithstanding section 13340 of the Government Code, the account is continuously appropriated to the commission without regard to fiscal year.

(b) The money in the account shall consist of all money authorized or required to be deposited in the account by the Legislature and all money received by the commission pursuant to Sections 25414 and 25415.

(c) The money in the account shall be disbursed by the Controller for the purposes of this chapter as authorized by the by the commission.

(d) The commission may contract and provide grants for services to be performed for eligible institutions. Services may include, but are not limited to, feasibility analysis, project design, field assistance, and operation and training. The amount expended for those services shall not exceed 10 percent of the annual appropriation from the account.

(e) The commission may make grants to demonstrate energy efficiency technologies at appropriate locations throughout the state. The amount expended for grants shall not exceed 5 percent of the annual appropriation from the account.

(f) The commission may charge a fee for the services provided under subdivision (d), provided that the funds used for the payment of those services shall have been made available to the eligible institution as a result of the realization of savings in energy costs. Those payments shall be deposited in the account. If anticipated savings do not result from the project, the repayment of fees shall be forgiven.

§ 25417. Use of allocation; return of allocation used for unauthorized purpose

(a) An allocation made pursuant to this chapter shall be used for the purposes specified in an approved application.

(b) In the event that the commission determines that an allocation has been expended for purposes other than those specified in an approved application, it shall immediately request the return of the full amount of the allocation. The eligible institution shall immediately comply with such request.

§25417.5. Loans, borrowing and lending authority

(a) In furtherance of the purposes of the commission as set forth in this chapter, the commission shall also have the power and authority to do all of the following:

(1) Borrow money, for the purpose of obtaining funds to make loans pursuant to this chapter, from the California Economic Development Financing Authority or the California Infrastructure and Economic Development Bank, from the proceeds of revenue bonds issued by either of those agencies.

(2) Pledge, to provide collateral in connection with the borrowing of money pursuant to paragraph (1), loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), or the principal and interest payments on loans made pursuant to this chapter or Chapter 5.4 commencing with Section 25440).

(3) Sell loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), at prices determined in the sole discretion of the commission, to the California Economic Development Financing Authority or the California Infrastructure and Economic Development Bank to raise funds to enable the commission to make loans to eligible institutions.

(4) Enter into loan agreements or other contracts necessary or appropriate in connection with the pledge or sale of loans pursuant to paragraph (2) or (3), or the borrowing of money as provided in paragraph (1), containing any provisions that may be required by the California Economic Development Financing Authority or the California Infrastructure and Economic Development Bank as conditions of issuing bonds to fund loans to, or the purchase of loans from, the commission.

(b) In connection with the pledging of loans, or of the principal and interest payment on loans, pursuant to paragraph (2) of subdivision (a), the commission may enter into pledge agreements setting forth the terms and conditions pursuant to which the commission is pledging loans or the principal and interest payment on loans, and may also agree to have the loans held by bond trustees or by independent collateral or escrow agents and to direct that payments received on those loans be paid to those trustee, collateral, or escrow agents.

(c) The commission may employ financial consultants, legal advisers, and accountants as may be necessary in its judgment in connection with activities pursuant to this chapter.

(d) Notwithstanding any other provision of law, this chapter provides a complete, separate, additional, and alternative method for the doing of things authorized by this chapter, including the authority of the eligible institutions or local jurisdictions to have borrowed and to borrow in the future pursuant to loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), and is supplemental and additional to powers conferred by other laws.

§ 25418. Audit

The Department of Finance, at its discretion may audit the expenditure of any allocation made pursuant to this chapter or the computation of any payment made pursuant to Section 25415.

§ 25419. Powers of commission

In addition to the powers specifically granted to the commission by the other provisions of this chapter, the commission shall have the following powers:

(a) To establish qualifications and priorities, consistent with the objectives of this chapter, for making allocations.

(b) To establish such procedures and policies as may be necessary for the administration of this chapter.

§ 25420. Administrative costs

The commission may expend from the State Energy Conservation Assistance Account an amount to pay for the actual administrative costs incurred by the commission pursuant to this chapter. Such amount shall not exceed 5 percent of the total appropriation, to be held in reserve and used to defray costs incurred by the commission for allocations made by the commission pursuant to this chapter.

§ 25421. Duration of chapter; repayment of outstanding loans; unexpended funds.

(a) Except as provided in subdivision (b), this chapter shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2001, deletes or extends that date.

(b) All loans outstanding as of January 1, 2001, shall continue to be repaid on a semiannual basis, as specified in Section 25415, until paid in full. All unexpended funds in the State Energy Conservation Assistance Account on January 1, 2001, and thereafter, except to the extent those funds are encumbered pursuant to Section 25417.5, shall revert to the General Fund.

§§ 25422 to 25426 Inoperative

CHAPTER 5.4. LOCAL JURISDICTION ENERGY ASSISTANCE

ARTICLE 1. GENERAL PROVISIONS

§ 25440. Legislative finding and declaration

The Legislature finds and declares all of the following:

(a) Energy costs account for a growing and substantial portion of the operating expenses for local governments, and other local jurisdictions in California.

(b) Substantial reductions in local jurisdiction energy costs can be realized through the utilization of energy conservation, management, and development techniques.

(c) Provision of financial assistance to local jurisdictions to reduce energy costs is consistent with the guidelines for using federal petroleum violation escrow funds which provide compensation to energy users who were overcharged by oil companies that violated federal oil price control regulations.

§ 25440.5. Definition

"Local jurisdiction" means any city, county, or regional planning agency, or any combination thereof formed for the joint exercise of any power.

ARTICLE 2. TRAINING AND MANAGEMENT ASSISTANCE

§ 25441. Financial assistance to provide staff training and support services

The commission shall provide financial assistance to local jurisdictions for the purpose of providing staff training and support services, including technical support services, in the fields of planning, design, permitting, conservation, comprehensive energy management, and development of energy and energy resources.

§ 25541.5. Limitation on financial assistance

Financial assistance provided to local jurisdictions under this article may not exceed 75 percent of the cost of carrying out the activity, unless the commission determines, by unanimous vote, that the public interest and objectives of this chapter would be better served at a higher level of state funding.

ARTICLE 3. ENERGY PROJECT ASSISTANCE

§ 25442. Loans; purposes

The commission shall provide loans to local jurisdictions for all of the following purposes:

- (a) Purchase, maintenance, and evaluation of energy efficient equipment for existing and new facilities, including, but not limited to, equipment related to lights, motors, pumps, water and wastewater systems, boilers, heating, and air conditioning.
- (b) Purchase, maintenance, and evaluation of small power production systems, including, but not limited to, wind, cogeneration, photovoltaics, geothermal, and hydroelectric systems.
- (c) Improve the operating efficiency of existing local transportation systems.

§ 25442.5. Projects commission may award financial assistance; loan repayments

The commission may award financial assistance for project audits, feasibility studies, engineering and design, and legal and financial analysis related to the purposes of Section 25442.

§ 25442.7. Limitations on amount of loans or financial assistance; loan repayments

Loans under this article may not exceed one million dollars (\$1,000,000) for any one local jurisdiction and financial assistance under this article may not exceed 75 percent of the project cost, unless the commission determines, by unanimous vote, that the public interest and objectives of this chapter would be better served at a higher loan amount.

Loan repayments shall be made in accordance with a schedule established by the commission. Repayment of loans shall be made in full unless the commission determines, by unanimous vote, that the public interest and objectives of this chapter would be better served by

negotiating a reduced loan repayment for a project which failed to meet the technical or financial performance criteria through no fault of the local jurisdiction.

§ 25443. Disposition of principal and interest payments

(a) Principal and interest payments on loans under this article shall be returned to the commission and shall be used to make additional loans to local jurisdictions pursuant to Section 25442 or to provide financial assistance to local jurisdictions pursuant to Section 25441.

(b) Notwithstanding any other provision of law, the commission shall, unless it determines that the purposes of this chapter would be better served by establishing an alternative interest rate schedule, periodically set interest rates on the loans based on surveys of existing financial markets and at rates not lower than the Pooled Money Investment Account.

§ 25443.5. Energy resources

(a) In furtherance of the purposes of the commission as set forth in this chapter, the commission shall also have the power and authority to do all of the following:

(1) Borrow money, for the purpose of obtaining funds to make loans pursuant to this chapter, from the California Economic Development Financing Authority or the California Infrastructure and Economic Development Bank, from the proceeds of revenue bonds issued by either of those agencies.

(2) Pledge, to provide collateral in connection with the borrowing of money pursuant to paragraph (1), loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), or the principal and interest payments on loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410).

(3) Sell loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), at prices determined in the sole discretion of the commission, to the California Economic Development Financing Authority or the California Infrastructure and Economic Development Bank to raise funds to enable the commission to make loans to eligible institutions.

(4) Enter into loan agreements or other contracts necessary or appropriate in connection with the pledge or sale of loans pursuant to paragraph (2) or (3), or the borrowing of money as provided in paragraph (1), containing any provisions that may be required by the California Economic Development Financing Authority or the California Infrastructure and Economic Development Bank as conditions of issuing bonds to fund loans to, or the purchase of loans from, the commission.

(b) In connection with the pledging of loans, or of the principal and interest payment on loans, pursuant to paragraph (2) of subdivision (a), the commission may enter into pledge agreements setting forth the terms and conditions pursuant to which the commission is pledging loans or the principal and interest payment on loans, and may also agree to have the loans held by bond trustees or by independent collateral or escrow agents and to direct that payments received on those loans be paid to those trustee, collateral, or escrow agents.

(c) The commission may employ financial consultants, legal advisers, and accountants as may be necessary in its judgment in connection with activities pursuant to this chapter.

(d) Notwithstanding any other provision of law, this chapter provides a complete, separate, additional, and alternative method for the doing of things authorized by this chapter, including the authority of the eligible institutions or local jurisdictions to have borrowed and to borrow in the future pursuant to loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), and is supplemental and additional to powers conferred by other laws.

ARTICLE 4. PROGRAM DESIGN AND ADVISORY COMMITTEE

§ 25445. Commission to design program; funding

The commission shall design a local jurisdiction energy assistance program for the purpose of providing financial assistance under Article 2 (commencing with Section 25441) and providing loans under Article 3 (commencing with Section 25442) by March 1, 1987, following consideration of recommendations from an advisory committee appointed by the commission under Section 25447. A local jurisdiction's energy assistance program shall be funded through the commission's existing local government assistance programs, except that if a project is not eligible for funding under an existing program, the commission may fund the project under this chapter.

§ 25446. Loans; evaluation factors

Loans made pursuant to this program shall, at a minimum, be evaluated on all of the following factors:

- (a) Project feasibility.
- (b) Local jurisdiction financial contribution to project.
- (c) Energy savings or energy production potential sufficient to repay the loan in accordance with Section 25442.
- (d) Availability of other federal or state funds.
- (e) Potential for project replication in other local jurisdictions.
- (f) Environmental benefits.
- (g) Economic development benefits.
- (h) Consistency with California energy policies as reflected in the commission's biennial report.

§ 25447. Repealed

§ 25447.1. Repealed

§ 25447.2. Advisory committee; compensation; reimbursement

Members of the advisory committee shall receive no compensation, but shall be reimbursed for necessary and reasonable expenses incurred in the performance of their duties.

ARTICLE 5. ENERGY SAVING TRANSPORTATION PROGRAM

§ 25448. Financial assistance; technical assistance and equipment

The Department of Transportation shall award financial assistance to local jurisdictions for the purposes of providing technical assistance and equipment to improve traffic flow efficiency through optimized traffic signal timing and operations.

§ 25448.1. Financial assistance; limitations

Financial assistance provided under this article may not exceed 75 percent of the cost of carrying out the activity, unless the department determines that the public interest and objectives of this chapter would be better served at a higher level of state funding.

ARTICLE 6. MISCELLANEOUS

§ 25449. Expenditure of petroleum violation escrow funds; agreement to improve energy efficiency at state-supported universities and colleges

The Commission shall enter into an agreement with the Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges for the expenditure of petroleum violation escrow funds to supplement, and not supplant, other available funds to improve energy efficiency at state-supported universities and colleges under their respective jurisdictions by funding projects involving any of the following:

- (a) Data collection.
- (b) Establishment of operations and maintenance standards.
- (c) Staff training.
- (d) Ongoing energy equipment maintenance.
- (e) Projects involving heating, ventilation, air conditioning, and lighting equipment.

§ 25449.1. Expenditures of petroleum violation escrow funds; agreements to provide school districts with grants for planning and management of energy conservation, and with loans to purchase, etc., energy efficient equipment

(a) The California Energy Extension Service of the Office of Planning and Research shall enter into an agreement with the State Department of Education to expend petroleum violation escrow funds to supplement, and not supplant, other available funds in order to provide grants to school districts for training and support services for planning and management of energy conservation and development projects.

(b) The commission shall enter into an agreement with the State Department of Education to expend petroleum violation escrow funds to supplement, and not supplant, other available funds in order to provide loans to school districts to purchase, maintain, and evaluate energy efficient equipment and small power production systems.

§ 25449.2 Effect of fees on an alternative public and private financing

Not later than three years after the imposition of any fees pursuant to this chapter, the commission shall report to the Legislature in the biennial energy conservation report required by Section 25401.1, on the effect of those fees on alternative public and private financing for public sector programs.

§ 25449.3. Local Jurisdiction Energy Assistance Account; establishment; receipts and disbursements

(a) The Local Jurisdiction Energy Assistance Account is hereby created in the General Fund. All moneys appropriated for purposes of this chapter and all moneys received from local jurisdictions from loan repayments shall be deposited in the account and disbursed by the Controller as authorized by the commission.

(b) The commission may charge a fee for the services provided under this chapter, provided that the funds used for the payment of those services shall have been made available to the local jurisdiction as a result of the realization of savings in energy costs. Those payments shall be deposited in the account. If anticipated savings do not result from the project, the repayment of fees shall be forgiven.

(c) The commission may contract for services to be performed by eligible institutions, as defined in subdivision (c) of Section 25411. Those services shall include, but are not limited to, performance of a feasibility analyses. and providing project design, field, and operation and training assistance. The amount expended for contract services shall not exceed 10 percent of the annual scheduled loan repayment to the Local Jurisdiction Energy Assistance Account, as determined by the commission not later than July 1 of each fiscal year.

§ 25449.4. Duration of Chapter

(a) Except as provided in subdivision (b), this chapter shall remain effective until January 1, 2002, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2002, deletes or extends that date.

(b) All loans outstanding as of January 1, 2002, shall continue to be repaid in accordance with a schedule established by the commission pursuant to Section 25442.7, until paid in full. All unexpended funds in the Local Jurisdiction Energy Assistance Account on January 1, 2002, and thereafter, except to the extent that those funds are encumbered pursuant to Section

25443.5, shall be deposited in the Federal Trust Fund and be available for the purposes for which federal oil overcharge funds are available pursuant to court judgment or federal agency order.

CHAPTER 5.5 PETROLEUM RESOURCE MANAGEMENT [Repealed]

§§ 25450 to 25455. Repealed

CHAPTER 5.7. SMART CORRIDOR TELECOMMUNICATIONS DEMONSTRATION PROJECT [Repealed]

§§ 25470 to 25473 Repealed

CHAPTER 5.8 ENERGY CONSERVATION IN TRANSPORTATION

§ 25480. Department

As used in this chapter, "department" means the Department of Transportation.

§ 25481. Legislative findings and declaration

The Legislative hereby finds and declares that:

(a) Due to the projected rapid growth in demand for energy, coupled with the mounting difficulties in providing energy supplies, a continuing energy shortage exists, posing a significant danger to public health and welfare.

(b) The use of the automobile represents the single largest use of energy in this state and, therefore, the growing use of energy by automobiles is a major factor contributing to such shortage.

(c) Heavy automobile traffic in our major cities has resulted in serious problems of air pollution and traffic congestion.

(d) Increased ridesharing by commuters would aid in lowering air pollution levels, conserving energy, and reducing urban traffic congestion.

It is, therefore, the purpose of this chapter to provide incentives for the wider use of ridesharing by commuters in metropolitan areas.

§ 25482. Assistance to state employees living in metropolitan areas; coordination by department

All state agencies shall provide assistance to their employees living in metropolitan areas in establishing carpools and locating potential carpool participants. The department shall be responsible for coordinating these efforts.

§ 25483. Ridesharing programs; metropolitan public and private employees; establishment and maintenance

In order to perform its new functions of promoting and assisting ridesharing the department is authorized to establish ridesharing programs in metropolitan areas for public and private employees with funds made available for such purpose from any source. The ridesharing programs may be established and maintained entirely by the department or by the department in cooperation with public or private parties pursuant to contract.

§ 25484. Ridesharing programs; inclusion of matching systems, promotional efforts and preferential treatment on highways

The ridesharing programs established by the department may include, but are not limited to, computer or manual matching systems, promotional efforts to encourage carpooling, vanpooling, bus pooling, and flexible work hours, and preferential treatment on highways.

§ 25485. Preferential lanes; engineering study; access to bus lanes

The department shall develop programs and undertake any necessary construction to establish, for the use of carpool vehicles carrying at least three persons, preferential lanes on major freeways in metropolitan areas where the total benefits to the carpool vehicles will bear a reasonable relationship to the total adverse effects on the remaining vehicles, as established on the basis of an engineering study. The department shall also permit such carpool vehicles to have access to preferential bus lanes established on major freeways, unless congestion seriously impeding the travel of buses will result or will present a serious traffic hazard.

§ 25486. Preferential lanes; state highway route 10; pilot project

The department is encouraged to establish as soon as possible preferential lanes for the use of buses and three-passenger carpool vehicles in both directions on State Highway Route 10, the Santa Monica Freeway, at least from Centinela Avenue to Vermont Avenue in Los Angeles County. Due to the high density traffic flow on such a highway, it is necessary that the department establish such preferential lanes as a pilot project so that data can be developed for implementation of similar projects in other areas of the state.

CHAPTER 5.9. ENERGY SYSTEMS

ARTICLE 1. DEFINITIONS

§ 25487. Construction of chapter

Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

§ 25488. Title 24 Standards

"Title 24 Standards" refers to the nonresidential building standards developed by the commission.

§ 25488.5. Building standard

"Building standard" means a building standard as defined in Section 18909 of the Health and Safety Code which is adopted by the commission.

§ 25489. Lifecycle cost

"Life-cycle cost" means an estimate of the total cost of acquisition, operation, maintenance, and construction of any energy system within or related to a structure over the design life of the structure. "Life-cycle cost" includes, but is not limited to, the cost of fuel, materials, machinery, ancillary devices, labor, service, replacement, and repairs.

§ 25490. Blank

§ 25491. Governmental agency

"Governmental agency" means any public agency, including any agency of the state, each county, city, district, association of governments, and joint power agency.

§ 25492. Structure

"Structure" means any building which has more than 10,000 square feet of floor area and which has a heating, cooling, water heating, or lighting system which is designed to provide lighting and space conditioning more than 1,000 hours per year.

§ 25493. New structure; compliance with Title 24 standards

On or after January 1, 1979, no governmental agency shall commence construction on any new structure unless the new structure complies with Title 24 Standards.

§ 25493.5. New structure; compliance with building standards

On and after January 1, 1980, no governmental agency shall commence construction on any new structure unless the new structure complies with all applicable building standards, as defined in Section 25488.5 and published in the State Building Standards Code.

§ 25494. Manual for comparison of lifecycle cost alternatives

Not later than July 13, 1978, the commission shall prepare a manual outlining a methodology by which governmental agencies and the general public may at their option compare the lifecycle costs of various building design alternatives. This manual will provide the information and procedures necessary to evaluate a building's lifecycle costs in the microclimate and utility service area where it is to be built.

§ 25495. Guidelines for new construction; options

No later than July 31, 1978, the commission shall develop design guidelines for new construction which include energy conserving options, including, but not limited to, the use of daylighting, heating ventilation and air conditioning economizer cycles, natural ventilation, building envelope solar heat gain control mechanisms, and alternative energy systems such as solar energy for space heating and water heating and load management strategies. These guidelines and the cost analysis done pursuant to Section 25494 may be considered by government agencies at their option for ultimate selection of a building design in the competitive bidding process.

§ 25496. Lighting standards for existing buildings; advice and recommendations

No later than July 1, 1978, the commission shall develop and make available to government agencies and the general public to be utilized at their option lighting standards for existing buildings. These standards shall address, but not be limited to, task and general area lighting levels, light switching and control mechanisms, and lighting energy budgets. The commission may provide advice and recommendations to the public or any governmental agency as to the standards.

§ 25497. Blank

§ 25498. Supplementary solar water heating system

In addition to any other requirements applicable to such structure, no new state-owned structure shall be construed which is not equipped with a supplementary solar water heating system, unless such structure is specifically exempted from this requirement by the State Architect for reasons of economic or physical infeasibility.

CHAPTER 6. POWER FACILITY AND SITE CERTIFICATION

§ 25500. Authority; necessity of certification

In accordance with the provisions of this division, the commission shall have the exclusive power to certify all sites and related facilities in the state, whether a new site and related facility or a change or addition to an existing facility. The issuance of a certificate by the commission shall be in lieu of any permit, certificate, or similar document required by any state, local or regional agency, or federal agency to the extent permitted by federal law, for such use of the site and related facilities, and shall supersede any applicable statute, ordinance, or regulation of any state, local, or regional agency, or federal agency to the extent permitted by federal law.

After the effective date of this division, no construction of any facility or modification of any existing facility shall be commenced without first obtaining certification for any such site and related facility by the commission, as prescribed in this division.

§ 25500.5. Certifications sufficient to accommodate projected demand

The commission shall certify sufficient sites and related facilities which are required to provide a supply of electric power sufficient to accommodate the demand projected in the most recent forecast of statewide and service area electric power demands adopted pursuant to subdivision (b) of Section 25309.

§ 25501. Inapplicability of chapter to certain sites and facilities

This chapter does not apply to any site and related facility for which the Public Utilities Commission has issued a certificate of public convenience and necessity or which any municipal utility has approved before January 7, 1995.

§25501.3 Repealed

25501.5 Repealed

§ 25501.7. Facility or site; proposed construction; waiver of exclusion; application of chapter

Any person proposing to construct a facility or a site to which Section 25501 applies may waive the exclusion of such site and related facility from the provisions of this chapter by submitting to the commission a notice to that effect on or after July 1, 1976, and any and all of the provisions of this chapter shall apply to the construction of such facility.

§ 25502. Thermal powerplant or transmission line; proposed construction; notice of intention

Each person proposing to construct a thermal powerplant or electric transmission line on a site shall submit to the commission a notice of intention to file an application for the certification of the site and related facility or facilities. The notice shall be an attempt primarily to determine the suitability of the proposed sites to accommodate the facilities and to determine the

general conformity of the proposed sites and related facilities with standards of the commission and assessments of need adopted pursuant to Sections 25305 to 25308, inclusive. The notice shall be in the form prescribed by the commission and shall be supported by such information as the commission may require.

Any site and related facility once found to be acceptable pursuant to Section 25516 is, and shall continue to be, eligible for consideration in an application for certification without further proceedings required for a notice under this chapter.

§ 25502.3. Facility; proposed construction; waiver of exclusion; application of chapter

Except as provided in Section 25501.7, any person proposing to construct a facility excluded from the provisions of this chapter may waive such exclusion by submitting to the commission a notice of intention to file an application for certification, and any and all of the provisions of this chapter shall apply to the construction of such facility.

§ 25502.5. Repealed

§ 25503. Alternative sites and related facilities; notice; contents

Each notice of intention to file an application shall contain at least three alternative sites and related facilities, at least one of which shall not be located in whole or in part in the coastal zone. In addition, the alternative sites and related electrical facilities may be proposed from an inventory of sites which have previously been approved by the commission in a notice of intent or may be proposed from sites previously examined.

§ 25504. Statement by applicant; contents

The notice of intention shall include a statement by the applicant describing the location of the proposed sites by section or sections, range and township, and county; a summary of the proposed design criteria of the facilities; the type or types of fuels to be used; the methods of construction and operation; the proposed location of facilities and structures on each site; a preliminary statement of the relative economic, technological, and environmental advantages and disadvantages of the alternative site and related facility proposals; a statement of need for the facility and information showing the compatibility of the proposals with the most recent electricity report issued pursuant to Section 25308; and any other information that an electric utility deems desirable to submit to the commission.

§ 25504.5. Proposal for site accommodating excess capacity; notice; contents

An applicant may, in the notice, propose a site to be approved which will accommodate a potential maximum electric generating capacity in excess of the capacity being proposed for the initial approval of the commission. If such a proposal is made, the notice shall include, but not be limited to, in addition to the information specified in Section 25504, all of the following:

(a) The number, type, and energy source of electric generating units which the site is proposed ultimately to accommodate and the maximum generating capacity for each unit.

- (b) The projected installation schedule for each unit.
- (c) The impact at the site when fully developed, on the environment and public health and safety.
- (d) The amount and sources of cooling water needed at the fully developed site.
- (e) The location and specifications of auxiliary facilities planned for each state of development including, but not limited to, pipelines, waste storage facilities, fuel storage facilities, switchyards, coolant lines, coolant outfalls, and cooling ponds, lakes, or towers.

§ 25505. Publication of summary of notice of intention; copies to governmental agencies

Upon receipt of a notice, the commission shall cause a summary of the notice to be published in a newspaper of general circulation in each county in which the sites and related facilities, or any part thereof, designated in the notice are proposed to be located. The commission shall also transmit a copy of the notice to the Public Utilities Commission, for sites and related facilities requiring a certificate of public convenience and necessity, and to other federal, state, regional, and local agencies having an interest in matters pertinent to the proposed facilities at any of the alternative sites. A copy of the notice shall also be transmitted to the Attorney General.

§ 25506. Comments and recommendations; governmental agencies

The commission shall request the appropriate local, regional, state, and federal agencies to make comments and recommendations regarding the design, operation, and location of the facilities designated in the notice, in relation to environmental quality, public health and safety, and other factors on which they may have expertise.

§ 25506.5. Comments and recommendations; public utilities commission

The commission shall request the Public Utilities Commission, for sites and related facilities requiring a certificate of public convenience and necessity, to make comments and recommendations regarding the design, operation, and location of the facilities designated in the notice in relation to the economic, financial, rate, system reliability, and service implications of the proposed facilities.

§ 25507. Coastal zones, Suisun Marsh or within jurisdiction of San Francisco Bay Conservation and Development Commission; alternative site and related facility; notice; analysis

(a) If any alternative site and related facility proposed in the notice is proposed to be located, in whole or in part, within the coastal zone, the commission shall transmit a copy of the notice to the California Coastal Commission. The California Coastal Commission shall analyze the notice and prepare the report and findings prescribed by subdivision (d) of Section 30413 prior to commencement of hearings pursuant to Section 25513.

(b) If any alternative site and related facility proposed in the notice is proposed to be located, in whole or in part, within the Suisun Marsh, or within the jurisdiction of the San Francisco Bay Conservation and Development Commission, the commission shall transmit a copy of the notice to the San Francisco Bay Conservation and Development Commission. The San Francisco Bay Conservation and Development Commission shall analyze the notice and prepare the report and findings prescribed by subdivision (d) of Section 66645 of the Government Code prior to commencement of hearings pursuant to Section 25513.

§ 25508. Coastal zone or Suisun Marsh; cooperation with commission; participation in proceedings

The commission shall cooperate with, and render advice to, the California Coastal Commission and the San Francisco Bay Conservation and Development Commission in studying applications for any site and related facility proposed to be located, in whole or in part, within the coastal zone, the Suisun Marsh, or the jurisdiction of the San Francisco Bay Conservation and Development Commission if requested by the California Coastal Commission or the San Francisco Bay Conservation and Development Commission, as the case may be. The California Coastal Commission or the San Francisco Bay Conservation and Development Commission, as the case may be, may participate in public hearings on the notice and on the application for site and related facility certification as an interested party in such proceedings.

§ 25509. Informational presentations; purposes

Within 45 days of the filing of the notice, the commission shall conduct public informational presentations in the county or counties in which the proposed sites and related facilities are located. The place of such public informational presentations shall be as close as practicable to the proposed sites. Such presentations shall be for the purpose of setting forth the electrical demand basis for the proposed site and related facility and providing and knowledge and understanding of the proposed facilities and sites.

§ 25509.5. Nonadjudicatory hearings; purposes

No sooner than 15 days after the conclusion of the presentations pursuant to Section 25509, the commission shall commence nonadjudicatory hearings. Such hearings shall identify issues for adjudication in hearings pursuant to Section 25513, issues which may be eliminated from further consideration in the notice proceedings, and issues which should be deferred to the certification proceeding. Any person may participate to the extent deemed reasonable and relevant by the presiding member of the commission in any such hearing. In scheduling such hearings the presiding member shall confer with the public adviser to provide that the hearing dates and locations

are as convenient as possible for interested parties and the public. Such hearings shall be conducted in order to accomplish all of the following purposes:

(a) To set forth the electrical demand basis for the proposed site and related facility.

(b) To provide knowledge and understanding of proposed facilities and sites.

(c) To obtain the views and comments of the public, parties, and concerned governmental agencies on the environmental, public health and safety, economic, social, and land use impacts of the facility at the proposed sites.

(d) To solicit information regarding reasonable alternative sources of the electric generating capacity or energy to be provided by alternative sites and related facilities, or combinations thereof, which will better carry out the Policies and objectives of this division.

§ 25510. Summary and hearing order on notice of intention to file application

After the conclusion of such hearings, and no later than 150 days after filing of the notice, the commission shall prepare and make public a summary and hearing order on the notice of intention to file an application. The commission may include within the summary and hearing order any other alternatives proposed by the commission or presented to the commission at a public hearing prior to preparation of the summary and hearing order. The summary and hearing order shall be published and made available to the public and to interested local, regional, state, and federal agencies.

§ 25511. Safety and reliability factors; information required; analysis; findings

The commission shall review the factors related to safety and reliability of the facilities at each of the alternative sites designated in the notice. In addition to other information requested of the applicant, the commission shall, in determining the appropriateness of sites and related facilities, require detailed information on proposed emergency systems and safety precautions, plans for transport, handling and storage of wastes and fuels, proposed methods to prevent illegal diversion of nuclear fuels, special design features to account for seismic and other potential hazards, proposed methods to control density of population in areas surrounding nuclear powerplants, and such other information as the commission may determine to be relevant to the reliability and safety of the facility at the proposed sites. The commission shall analyze the information provided by the applicant, supplementing it, where necessary, by onsite investigations and other studies. The commission shall determine the adequacy of measures proposed by the applicant to protect public health and safety, and shall include its findings in the final report required by Section 25514.

§ 25512. Summary and hearing order; basis; contents

The summary and hearing order shall be based upon the record of the proceeding including statements or documents presented during any hearing or informational presentation on

the notice, the comments transmitted by the Public Utilities Commission and local, regional, state, and federal agencies and the public to the commission, and the independent studies conducted by the commission's staff.

The summary and hearing order shall:

- (a) Identify those issues for consideration in hearings pursuant to Section 25513.
- (b) Identify those issues which may be eliminated from further consideration in the notice of intention proceedings.
- (c) Identify those issues which should be deferred to the certification proceeding.
- (d) Contain proposed findings on matters relevant to the provisions of Section 25514.
- (e) Specify dates for the adjudicatory hearings.

§ 25512.5. Distribution of copies

Within 15 days of the publication of the summary and hearing order, a copy will be distributed to any person who requests such copy.

§ 25513. Adjudicatory hearings; commencement

No earlier than 30 days after distribution of the summary and hearing order, the commission shall commence adjudicatory hearings pursuant to the hearing order.

**§25513.3 Disqualification; investigator or advocate in adjudicative proceeding
[operative July 1, 1997]**

Notwithstanding Sections 11425.30 and 11430.10 of the Government Code, unless a party demonstrates other statutory grounds for disqualification, a person who has served as investigator or advocate in an adjudicative proceeding of the commission under this code may serve as a supervisor of the presiding officer or assist or advise the presiding officer in the same proceeding if the service, assistance, or advice occurs more than one year after the time the person served as investigator or advocate, provided the content of any advice is disclosed on the record and all parties have an opportunity to comment on the advice.

§ 25514. Final report; contents

After conclusion of the hearings held pursuant to Section 25513 and no later than 300 days after the filing of the notice, a final report shall be prepared and distributed. The final report shall include, but not be limited to, all of the following:

(a) The findings and conclusions of the commission regarding the conformity of alternative sites and related facilities designated in the notice or considered in the notice of intention proceeding with both of the following:

(1) The 12-year forecast of statewide and service area electric power demands adopted pursuant to subdivision (e) of Section 25305, except as provided in Section 25514.5.

(2) Applicable local, regional, state, and federal standards, ordinances, and laws, including any long-range land use plans or guidelines adopted by the state or by any local or regional planning agency, which would be applicable but for the exclusive authority of the commission to certify sites and related facilities; and the standards adopted by the commission pursuant to Section 25216.3.

(b) Any findings and comments submitted by the California Coastal Commission pursuant to Section 25507 and subdivision (d) of Section 30413.

(c) Any findings and comments submitted by the San Francisco Bay Conservation and Development Commission pursuant to Section 25507 of this code and subdivision (d) of Section 66645 of the Government Code.

(d) The commission's findings on the acceptability and relative merit of each alternative siting proposal designated in the notice or presented at the hearings and reviewed by the commission. The specific findings of relative merit shall be made pursuant to Sections 25502 to 25516, inclusive. In its findings on any alternative siting proposal, the commission may specify modification in the design, construction, location, or other conditions which will meet the standards, policies, and guidelines established by the commission.

(e) Findings and conclusions with respect to the safety and reliability of the facility or facilities at each of the sites designed in the notice, as determined by the commission pursuant to Section 25511, and any conditions, modifications, or criteria proposed for any site and related facility proposal resulting from such findings and conclusions.

§ 25514.3. Public utilities commission; comments and recommendations

In specifying any modifications, conditions, or criteria pursuant to Section 25514, for sites and related facilities requiring a certificate of public convenience and necessity, the commission shall request the comments and recommendations of the Public Utilities Commission on the economic, financial, rate, system reliability, and service implications of such modifications, conditions, or criteria.

§ 25514.5. Conformity of proposal with forecast; determination

In considering the acceptability of a site proposed to accommodate ultimately additional power-generating capacity, the commission, in determining pursuant to Sections 25514 and 25512, the conformity of the facilities proposed in the notice with the 12-year forecast of statewide and service area electric power demands adopted pursuant to subdivision (e) of Section 25305, shall base its determination only on such initial facilities as are proposed for operation within the forthcoming 12-year period. Additional facilities projected to be operating at the site at a time

beyond the forthcoming 12-year period shall not be considered in the determination of conformity with the electric power demand forecast.

§ 25515. Final report; hearings

No later than 30 days after the final report is distributed, a hearing or hearings on the final report shall be commenced. Such hearings shall be concluded within 15 days of their commencement.

§ 25516. Approval of notice; necessity for alternative site and related facility proposals; exception

The approval of the notice by the commission shall be based upon findings pursuant to Section 25514. The notice shall not be approved unless the commission finds at least two alternative site and related facility proposals considered in the commission's final report as acceptable. If the commission does not find at least two sites and related facilities acceptable, additional sites and related facilities may be proposed by the applicant which shall be considered in the same manner as those proposed in the original notice.

If the commission finds that a good faith effort has been made by the person submitting the notice to find an acceptable alternative site and related facility and that there is only one acceptable site and related facility among those submitted, the commission may approve the notice based on the one site and related facility. If a notice is approved based on one site and related facility, the commission may require a new notice to be filed to identify acceptable alternative sites and related facilities for the one site and related facility approved unless suitable alternative sites and related facilities have been approved by the commission in previous notice of intention proceedings.

If the commission finds that additional electric generating capacity is needed to accommodate the electric power demand forecast pursuant to subdivision (e) of Section 25305 and, after the commission finds that a good faith effort was made by the person submitting the notice to propose an acceptable site and related facility, it fails to find any proposed site and related facility to be acceptable, the commission shall designate, at the request of and at the expense of the person submitting the notice, a feasible site and related facility for providing the needed electric generating capacity.

§ 25516.1. Finding of relative merit of available alternative sites

If a site and related facility found to be acceptable by the commission pursuant to Section 25516 is located in the coastal zone, the Suisun Marsh, or the jurisdiction of the San Francisco Bay Conservation and Development Commission, no application for certification may be filed pursuant to Section 25519 unless the commission has determined, pursuant to Section 25514, that such site and related facility have greater relative merit than available alternative sites and related facilities for an applicant's service area which have been determined to be acceptable by the commission pursuant to Section 25516.

§ 25516.5. Approval of notice for initial and expanded ultimate capacity; potential multiple-facility site

On a notice which proposes an expanded ultimate electric generating capacity for a site, the commission may, based upon findings pursuant to Section 25514, either approve the notice only for the initial facility or facilities proposed for operation within the forthcoming 12-year period or may approve the notice for the initial facility or facilities and find the site acceptable for additional generating capacity of the type tentatively proposed. The maximum allowable amount and type of such additional capacity shall be determined by the commission.

If a notice is approved which includes a finding that a particular site is suitable to accommodate a particular additional generating capacity, the site shall be designated a potential multiple-facility site. The commission may, in determining the acceptability of a potential multiple-facility site, specify conditions or criteria necessary to insure that future additional facilities will not exceed the limitations of the site.

§ 25516.6. Decision on notice; determination for completeness; determination as to when notice is considered filed

(a) Except as otherwise expressly provided in this division, the commission shall issue its written decision on the notice not later than 12 months after the notice is filed, or at any later time as is mutually agreed upon by the commission and the applicant.

(b) The commission shall determine, within 45 days after it receives the notice, whether the notice is complete. If the commission determines that the notice is complete, the notice shall be deemed filed for the purpose of this section on the date that this determination is made. If the commission determines that the notice is incomplete, the commission shall specify, in writing, those parts of the notice which are incomplete and shall indicate the manner in which it can be made complete. If the applicant submits additional data to complete the notice, the commission shall determine, within 30 days after receipt of that data, whether the data is sufficient to make the notice complete. The notice shall be deemed filed on the date the commission determines the notice is complete if the commission has adopted regulations specifying the informational requirements for a complete notice, but if the commission has not adopted regulations, the notice shall be deemed filed on the last date the commission receives any additional data that completes the notice.

§ 25517. Necessity of certification; restoration if certification denied

Except as provided in Section 25501 no construction of any thermal powerplant or electric transmission line shall be commenced by any electric utility without first obtaining certification as prescribed in this division. Any onsite improvements not qualifying as construction may be required to be restored as determined by the commission as to be necessary to protect the environment, if certification is denied.

§ 25518. Certification required before issuance of certificate of public convenience and necessity; exception

The Public Utilities Commission shall issue no certificate of public convenience and necessity for a site or related electrical facilities unless the utility has obtained a certificate from the commission.

§ 25518.5. Concurrent initiation of application for certificate; conditions

Nothing in this division shall preclude the concurrent initiation of an application for a certificate of public convenience and necessity from the Public Utilities Commission subject to the condition specified in Section 25518.

§ 25519. Application for certification of site and related facility; data; impact report; local agencies; copies

(a) In order to obtain certification for a site and related facility, an application for certification of such site and related facility shall be filed with the commission. Such application shall be in a form prescribed by the commission and shall be for a site and related facility which has been found to be acceptable by the commission pursuant to Section 25516, or for an additional facility at a site which has been designated a potential multiple facility site pursuant to Section 25514.5 and found to be acceptable pursuant to Sections 25516 and 25516.5. An application for an additional facility at a potential multiple-facility site shall be subject to the conditions and review specified in Section 25520.5. An application may not be filed for a site and related facility, if there is no suitable alternative for the site and related facility which was previously found to be acceptable by the commission, unless the commission has approved the notice based on the one site as specified in Section 25516.

(b) The commission, upon its own motion or in response to the request of any party, may require the applicant to submit any information, document, or data, in addition to the attachments required by subdivision (i), which it determines is reasonably necessary to make any decision on the application.

(c) The commission shall be the lead agency as provided in Section 21165 for all projects which require certification pursuant to this chapter and for projects which are exempted from such certification pursuant to Section 25541. Unless the commission's regulatory program governing site and facility certification and related proceedings are certified by the Resources Agency pursuant to Section 21080.5, an environmental impact report shall be completed within one year after receipt of the application. If the commission prepares a document or documents in the place of an environmental impact report or negative declaration under a regulatory program certified pursuant to Section 21080.5, any other public agency which must make a decision which is subject to the California Environmental Quality Act, Division 13 (commencing with Section 21000), on a site or related facility, shall use the document or documents prepared by the commission in the same manner as they would use an environmental impact report or negative declaration prepared by a lead agency.

(d) If the site and related facility specified in the application is proposed to be located in the coastal zone, the commission shall transmit a copy of the application to the California Coastal Commission for its review and comments.

(e) If the site and related facility specified in the application is proposed to be located in the Suisun Marsh or the jurisdiction of the San Francisco Bay Conservation and Development Commission, the commission shall transmit a copy of the application to the San Francisco Bay Conservation and Development Commission for its review and comments.

(f) Upon receipt of an application, the commission shall forward the application to local governmental agencies having land use and related jurisdiction in the area of the proposed site and related facility. Such local agencies shall review the application and submit comments on,

among other things, the design of the facility, architectural and aesthetic features of the facility, access to highways, landscaping and grading, public use of lands in the area of the facility, and other appropriate aspects of the design, construction, or operation of the proposed site and related facility.

(g) Upon receipt of an application, the commission shall cause a summary of the application to be published in a newspaper of general circulation in the county in which the site and related facilities, or any part thereof, designated in the application, is proposed to be located. The commission shall transmit a copy of the application to each federal and state agency having jurisdiction or special interest in matters pertinent to the proposed site and related facilities and to the Attorney General.

(h) The adviser shall require that adequate notice is given to the public and that the procedures specified by this division are complied with.

(i) For any proposed site and related facility requiring a certificate of public convenience and necessity, the commission shall transmit a copy of the application to the Public Utilities Commission and request the comments and recommendations of the Public Utilities Commission on the economic, financial, rate, system reliability, and service implications of the proposed site and related facility. In the event the commission requires modification of the proposed facility, the commission shall consult with the Public Utilities Commission regarding the economic, financial, rate, system reliability, and service implications of such modifications.

(j) The commission shall transmit a copy of the application to any governmental agency not specifically mentioned in this act, but which it finds has any information or interest in the proposed site and related facilities, and shall invite the comments and recommendations of each such agency. The commission shall request any relevant laws, ordinances, or regulations which any such agency has promulgated or administered.

(k) An application for certification of any site and related facilities shall contain a listing of every federal agency from which any approval or authorization concerning the proposed site is required, specifying the approvals or authorizations obtained at the time of the application and the schedule for obtaining any approvals or authorizations pending.

§ 25520. Application; contents

The application shall contain all of the following information and any other information that the commission by regulation may require:

(a) A detailed description of the design, construction, and operation of the proposed facility.

(b) Safety and reliability information, including, in addition to documentation previously provided pursuant to Section 25511, planned provisions for emergency operations and shutdowns.

(c) Available site information, including maps and descriptions of present and proposed development and, as appropriate, geological, aesthetic, ecological, seismic, water supply, population and load center data, and justification for the particular site proposed.

(d) Any other information relating to the design, operation, and siting of the facility that the commission may specify.

(e) A statement of need providing information showing compatibility of the proposed facility with the most recent electricity report issued by the commission pursuant to Sections 25305 to 25308, inclusive, or, where applicable, information pertinent to Section 25523.5, regarding the conformity of a competitive solicitation for new generation resources with the integrated assessment of need for new resource additions determined pursuant to subdivisions (a) to (f), inclusive, of Section 25305 and adopted pursuant to Section 25308, and in effect at the time that the competitive solicitation for new generation resources, as described in subdivision (f) of Section 25523, was developed.

(f) A description of the facility, the cost of the facility, the fuel to be used, the source of fuel, fuel cost, plant service life and capacity factor, and generating cost per kilowatt hour.

(g) A description of any electric transmission lines including the estimated cost of the proposed electric transmission line; a map in suitable scale of the proposed routing showing details of the rights-of-way in the vicinity of settled areas, parks, recreational areas, and scenic areas, and existing transmission lines within one mile of the proposed route; and justification for the route and a preliminary description of the effect of the proposed electric transmission line on the environment, ecology, and scenic, historic and recreational values.

§ 25520.5. Additional facility at a potential multiple-facility site; reconsideration of prior determination

(a) In reviewing an application for an additional facility at a potential multiple-facility site, the commission shall undertake a reconsideration of its prior determinations in the final report on the notice for the site issued pursuant to Section 25514, based on current conditions and other reasonable and feasible alternatives to the proposed facility.

(b) Within 180 days of the filing of the application for an additional facility at a potential multiple-facility site and after adequate public hearings, the commission shall issue its decision on the acceptability of the proposed facility based on the reconsideration specified in subdivision (a) of this section. A negative determination shall be the final decision of the commission on the application and subject to judicial review pursuant to Section 25531. An affirmative determination shall not be a final decision of the commission on the application.

(c) The decision of the commission on an application for an additional facility at a potential multiple-facility site receiving a favorable determination pursuant to subdivision (b) of this section shall be issued within 24 months after the filing of the application or at such later time as is mutually agreed upon by the commission and the applicant.

§ 25521. Public hearings.

No earlier than 90 nor later than 240 days after the date of the filing of an application, the commission shall commence a public hearing or hearings thereon in Sacramento, San Francisco, Los Angeles, or San Diego, whichever city is nearest the proposed site. Additionally, the commission may hold a hearing or hearings in the county in which the proposed site and related facilities are to be located.

§ 25522. Written decision on application for certification of site; time; determination as to when application considered filed

(a) Except as provided in subdivision (c) of Section 25520.5, within 18 months of the filing of an application for certification, or within 12 months if it is filed within one year of the commission's approval of the notice of intent, or at any later time as is mutually agreed by the commission and the applicant, the commission shall issue a written decision as to the application.

(b) The commission shall determine, within 45 days after it receives the application, whether the application is complete. If the commission determines that the application is complete, the application shall be deemed filed for the purpose of this section on the date that this determination is made. If the commission determines that the application is incomplete, the commission shall specify in writing those parts of the application which are incomplete and shall indicate the manner in which it can be made complete. If the applicant submits additional data to complete the application, the commission shall determine, within 30 days after receipt of that data, whether the data is sufficient to make the application complete. The application shall be deemed filed on the date when the commission determines the application is complete if the commission has adopted regulations specifying the informational requirements for a complete application, but if the commission has not adopted regulations, the application shall be deemed filed on the last date the commission receives any additional data that completes the application.

§ 25523. Written decision; contents

The commission shall prepare a written decision after the public hearing on an application, which includes all of the following:

(a) Specific provisions relating to the manner in which the proposed facility is to be designed, sited, and operated in order to protect environmental quality and assure public health and safety.

(b) In the case of a site to be located in the coastal zone, specific provisions to meet the objectives of Division 20 (commencing with Section 30000) as may be specified in the report submitted by the California Coastal Commission pursuant to subdivision (d) of Section 30413, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or that the provisions proposed in the report would not be feasible.

(c) In the case of a site to be located in the Suisun Marsh or in the jurisdiction of the San Francisco Bay Conservation and Development Commission, specific provisions to meet the requirements of Division 19 (commencing with Section 29000) of this code or Title 7.2 (commencing with Section 66600) of the Government Code as may be specified in the report submitted by the San Francisco Bay Conservation and Development Commission pursuant to subdivision (d) of Section 66645 of the Government Code, unless the Commission specifically finds

that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or the provisions proposed in the report would not be feasible.

(d)(1) Findings regarding the conformity of the proposed site and related facilities with standards adopted by the commission pursuant to Section 25216.3 and subdivision (d) of Section 25402, with public safety standards and the applicable air and water quality standards, and with other relevant local, regional, state, and federal standards, ordinances, or laws. If the commission finds that there is noncompliance with any state, local, or regional ordinance or regulation in the application, it shall consult and meet with the state, local, or regional governmental agency concerned to attempt to correct or eliminate the noncompliance. If the noncompliance cannot be corrected or eliminated, the commission shall inform the state, local, or regional governmental agency if it makes the findings required by Section 25525.

(2) The commission shall not find that the proposed facility conforms with applicable air quality standards pursuant to paragraph (1) unless the applicable air pollution control district or air quality management district certifies that complete emissions offsets for the proposed facility have been identified and will be obtained by the applicant prior to the commission's licensing of the project, to the extent that the proposed facility requires emission offsets to comply with local, regional, state, or federal air quality standards.

(e) Provision for restoring the site as necessary to protect the environment, if the commission denies approval of the application.

(f) Findings regarding the conformity of the proposed facility with the integrated assessment of need for new resource additions determined pursuant to subdivisions (a) to (f), inclusive, of Section 25305 and adopted pursuant to Section 25308 or, where applicable, findings pursuant to Section 25523.5 regarding the conformity of a competitive solicitation for new generation resources with the integrated assessment of need for new resource additions determined pursuant to subdivisions (a) to (f), inclusive, of Section 25305 and adopted pursuant to Section 25308 that was in effect at the time that the solicitation was developed.

(g) In the case of a geothermal site and related facility, findings on whether there are sufficient commercial quantities of geothermal resources available to operate the proposed facility for its planned life.

(h) In the case of a site and related facility using resource recovery (waste-to-energy) technology, specific conditions requiring that the facility be monitored to ensure compliance with paragraphs (1), (2), (3), and (6) of subdivision (a) of Section 42315 of the Health and Safety Code.

(i) In the case of a facility other than a resource recovery facility subject to subdivision (h), specific conditions requiring the facility to be monitored to ensure compliance with toxic air contaminant control measures adopted by an air pollution control district or air quality management district pursuant to subdivision (d) of Section 39666 or Section 41700 of the Health and Safety Code, whether the measures were adopted before or after issuance of a determination of compliance by the district.

§ 25523.5 Affirmative Finding

The commission shall make an affirmative finding pursuant to subdivision (f) of Section 25523 if the proposed facility is either of the following:

(a) The result of the Public Utilities Commission's Final Standard Offer No. 4 auction on the Request for Bids issued in August 1993.

(b) The result of a utility's competitive solicitation for new generation resources which limits the amount of new generation to an amount of capacity or energy at or below the amount of capacity or energy determined to be needed for the utility through the integrated assessment of need for new resource additions determined pursuant to subdivisions (a) to (f), inclusive, of Section 25305 and adopted pursuant to Section 25308, and in effect at the time that the solicitation was developed, provided that the application for certification for the proposed facility is filed within 18 months after contracts have been executed from the utility's competitive solicitation.

§ 25524. Certifications; conformity with forecast; sufficiency with geothermal resources

(a) The commission shall not certify any facility contained in the application, unless its findings with respect to subdivision (f) of Section 25523 are in the affirmative.

(b) The commission shall not certify any geothermal site and related facility unless it finds that the geothermal field dedicated to the proposed powerplant is reasonably capable of providing geothermal resources in sufficient commercial quantities to supply the powerplant over its planned life.

§ 25524.1. Nuclear fuel rod reprocessing and storage; conditions for plant certification and land use; findings; resolution of disaffirmance; vested rights

(a) Except for the existing Diablo Canyon Units 1 and 2 owned by Pacific Gas and Electric Company and San Onofre Units 2 and 3 owned by Southern California Edison Company and San Diego Gas and Electric Company, no nuclear fission thermal powerplant requiring the reprocessing of fuel rods, including any to which this chapter does not otherwise apply, excepting any having a vested right as defined in this section, shall be permitted land use in the state, or where applicable, certified by the commission until both of the following conditions are met:

(1) The commission finds that the United States through its authorized agency has identified and approved, and there exists a technology for the construction and operation of, nuclear fuel rod reprocessing plants.

(2) The commission has reported its findings and the reasons therefor pursuant to paragraph (1) to the Legislature. That report shall be assigned to the appropriate policy committees for review. The commission may proceed to certify nuclear fission thermal powerplants 100 legislative days after reporting its findings unless within those 100 legislative days either house of the Legislature adopts by a majority vote of its members a resolution disaffirming the findings of the commission made pursuant to paragraph (1).

(3) A resolution of disaffirmance shall set forth the reasons for the action and shall provide to the extent possible, guidance to the commission as to an appropriate method of bringing the commission's findings into conformance with paragraph (1).

(4) If a disaffirming resolution is adopted, the commission shall reexamine its original findings consistent with matters raised in the resolution. On conclusion of its reexamination, the commission shall transmit its findings in writing, with the reasons therefor, to the Legislature.

(5) If the findings are that the conditions of paragraph (1) have been met, the commission may proceed to certify nuclear fission thermal powerplants 100 legislative days after reporting its findings to the Legislature unless within those 100 legislative days both houses of the Legislature act by statute to declare the findings null and void and takes appropriate action.

(6) To allow sufficient time for the Legislature to act, the reports of findings of the commission shall be submitted to the Legislature at least six calendar months prior to the adjournment of the Legislature sine die.

(b) The commission shall further find on a case-by-case basis that facilities with adequate capacity to reprocess nuclear fuel rods from a certified nuclear facility or to store that fuel if that storage is approved by an authorized agency of the United States are in actual operation or will be in operation at the time that the nuclear facility requires reprocessing or storage; provided, however, that the storage of fuel is in an offsite location to the extent necessary to provide continuous onsite full core reserve storage capacity.

(c) The commission shall continue to receive and process notices of intention and applications for certification pursuant to this division, but shall not issue a decision pursuant to Section 25523 granting a certificate until the requirements of this section have been met. All other permits, licenses, approvals, or authorizations for the entry or use of the land, including orders of court, which may be required may be processed and granted by the governmental entity concerned but construction work to install permanent equipment or structures shall not commence until the requirements of this section have been met.

§ 25524.2. Disposal of high-level nuclear waste; conditions for plant certification and land use; findings; resolution of disaffirmance; vested rights

Except for the existing Diablo Canyon Units 1 and 2 owned by Pacific Gas and Electric Company and San Onofre Units 2 and 3 owned by Southern California Edison Company and San Diego Gas and Electric Company, no nuclear fission thermal powerplant, including any to which this chapter does not otherwise apply, but excepting those exempted herein, shall be permitted land use in the state, or where applicable, be certified by the commission until both of the following conditions have been met:

(a) The commission finds that there has been developed and that the United States through its authorized agency has approved and there exists a demonstrated technology or means for the disposal of high-level nuclear waste.

(b) (1) The commission has reported its findings and the reasons therefor pursuant to paragraph (a) to the Legislature. That report shall be assigned to the appropriate policy committees for review. The commission may proceed to certify nuclear fission thermal powerplants

100 legislative days after reporting its findings unless within those 100 legislative days either house of the Legislature adopts by a majority vote of its members a resolution disaffirming the findings of the commission made pursuant to subdivision (a).

(2) A resolution of disaffirmance shall set forth the reasons for the action and shall provide to the extent possible, guidance to the commission as to an appropriate method of bringing the commission's findings into conformance with subdivision (a).

(3) If a disaffirming resolution is adopted, the commission shall reexamine its original findings consistent with matters raised in the resolution. On conclusion of its reexamination, the commission shall transmit its findings in writing, with the reasons therefor, to the Legislature.

(4) If the findings are that the conditions of subdivision (a) have been met, the commission may proceed to certify nuclear fission thermal powerplants 100 legislative days after reporting its findings to the Legislature unless within those 100 legislative days both houses of the Legislature act by statute to declare the findings null and void and take appropriate action.

(5) To allow sufficient time for the Legislature to act, the reports of findings of the commission shall be submitted to the Legislature at least six calendar months prior to the adjournment of the Legislature sine die.

(c) As used in subdivision (a), "technology or means for the disposal of high-level nuclear waste" means a method for the permanent and terminal disposition of high-level nuclear waste. Nothing in this section requires that facilities for the application of that technology or means be available at the time that the commission makes its findings. That disposition of high-level nuclear waste does not preclude the possibility of an approved process for retrieval of the waste.

(d) The commission shall continue to receive and process notices of intention and applications for certification pursuant to this division but shall not issue a decision pursuant to Section 25523 granting a certificate until the requirements of this section have been met. All other permits, licenses, approvals or authorizations for the entry or use of the land, including orders of court, which may be required may be processed and granted by the governmental entity concerned but construction work to install permanent equipment or structures shall not commence until the requirements of this section have been met.

§ 25524.25. Repealed

§ 25524.3. Repealed

§ 25524.5. Certification not in excess of maximum allowable capacity; exception; conditions

The commission shall not certify any facility which adds generating capacity to a potential multiple-facility site in excess of the maximum allowable capacity established by the commission pursuant to Section 25516.5, unless the commission finds that exceeding the maximum allowable capacity will not increase adverse environmental impacts or create technological, seismic, or other difficulties beyond those already found acceptable in the commission's findings on the notice for that site pursuant to Sections 25516 and 25516.5.

§ 25525. Conformance with standards, ordinances and laws; exception

The commission shall not certify any facility contained in the application when it finds, pursuant to subdivision (d) of Section 25523, that the facility does not conform with any applicable state, local, or regional standards, ordinances, or laws, unless the commission determines that such facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving such public convenience and necessity. In no event shall the commission make any finding in conflict with applicable federal law or regulation. The basis for such findings shall be reduced to writing and submitted as part of the record pursuant to Section 25523.

§ 25526. Findings necessary for site approval

(a) The commission shall not approve as a site for a facility any location designated by the California Coastal Commission pursuant to subdivision (b) of Section 30413, unless the California Coastal Commission first finds that such use is not inconsistent with the primary uses of such land and that there will be no substantial adverse environmental effects and unless the approval of any public agency having ownership or control of such land is obtained.

(b) The commission shall not approve as a site for a facility any location designated by the San Francisco Bay Conservation and Development Commission pursuant to subdivision (b) of Section 66645 of the Government Code unless the San Francisco Bay Conservation and Development Commission first finds that such use is not inconsistent with the primary uses of such land and that there will be no substantial adverse environmental effects and unless the approval of any public agency having ownership or control of such land is obtained.

§ 25527. Prohibited areas as sites for facilities; exceptions

The following areas of the state shall not be approved as a site for a facility, unless the commission finds that such use is not inconsistent with the primary uses of such lands and that there will be no substantial adverse environmental effects and the approval of any public agency having ownership or control of such lands is obtained:

(a) State, regional, county and city parks; wilderness, scenic or natural reserves; areas for wildlife protection, recreation, historic preservation; or natural preservation areas in existence on the effective date of this division.

(b) Estuaries in an essentially natural and undeveloped state.

In considering applications for certification, the commission shall give the greatest consideration to the need for protecting areas of critical environmental concern, including, but not limited to, unique and irreplaceable scientific, scenic, and educational wildlife habitats; unique historical, archaeological, and cultural sites; lands of hazardous concern; and areas under consideration by the state or the United States for wilderness, or wildlife and game reserves.

§ 25528. Acquisition of development rights by applicant; population densities; eminent domain; nuclear facility; governmental land use restrictions

(a) The commission shall require as a condition of certification of any site and related facility, that the applicant acquire, by grant or contract, the right to prohibit development of privately owned lands in the area of the proposed site which will result in population densities in excess of the maximum population densities which the commission determines, as to the factors considered by the commission pursuant to Section 25511, are necessary to protect public health and safety.

If the applicant is authorized to exercise the right of eminent domain under Article 7 (commencing with Section 610) of Chapter 3 of Part 1 of Division 1 of the Public Utilities Code, the applicant may exercise the right of eminent domain to acquire such development rights as the commission requires be acquired.

(b) In the case of an application for a nuclear facility, the area and population density necessary to insure the public's health and safety designated by the commission shall be that as determined from time to time by the United States Nuclear Regulatory Commission, if the commission finds that such determination is sufficiently definitive for valid land use planning requirements.

(c) The commission shall waive the requirements of the acquisition of development rights by an applicant to the extent that the commission finds that existing governmental land use restrictions are of a type necessary and sufficient to guarantee the maintenance of population levels and land use development over the lifetime of the facility which will insure the public health and safety requirements set pursuant to this section.

(d) No change in governmental land use restrictions in such areas designated in subdivision (c) of this section by any government agency shall be effective until approved by the commission. Such approval shall certify that the change in land use restrictions is not in conflict with requirements provided for by this section.

(e) It is not the intent of the Legislature by the enactment of this section to take private property for public use without payment of just compensation in violation of the United States Constitution or the Constitution of California.

§ 25529. Public use area; maintenance by applicant or dedication to local agency or state

When a facility is proposed to be located in the coastal zone or any other area with recreational, scenic, or historic value, the commission shall require, as a condition of certification of any facility contained in the application, that an area be established for public use, as determined by the commission. Lands within such area shall be acquired and maintained by the applicant and shall be available for public access and use, subject to restrictions required for security and public safety. The applicant may dedicate such public use zone to any local agency agreeing to operate or maintain it for the benefit of the public. If no local agency agrees to operate or maintain the public use zone for the benefit of the public, the applicant may dedicate such zone to the state. The commission shall also require that any facility to be located along the coast or shoreline of any major body of water be set back from the shoreline to permit reasonable public use and to protect scenic and aesthetic values.

§ 25530. Reconsideration of decision or order; motion; petition

The commission may order a reconsideration of all or part of a decision or order on its own motion or on petition of any party.

Any such petition shall be filed within 30 days after adoption by the commission of a decision or order. The commission shall not order a reconsideration on its own motion more than 30 days after it has adopted a decision or order. The commission shall order or deny reconsideration on a petition therefor within 30 days after the petition is filed.

A decision or order may be reconsidered by the commission on the basis of all pertinent portions of the record together with such argument as the commission may permit, or the commission may hold a further hearing, after notice to all interested persons. A decision or order of the commission on reconsideration shall have the same force and effect as an original order or decision.

§ 25531. Judicial review; evidence; scope; jurisdiction; eminent domain proceedings; prohibition of mandate for specific supply plan

(a) The decisions of the commission on any application of any electric utility for certification of a site and related facility are subject to judicial review in the same manner as the decisions of the Public Utilities Commission on the application for a Certificate of Public Convenience and Necessity for the same site and related facility.

(b) No new or additional evidence may be introduced upon review and the cause shall be heard on the record of the commission as certified to by it. The review shall not be extended further than to determine whether the commission has regularly pursued its authority, including a determination of whether the order or decision under review violates any right of the petitioner under the United States Constitution or the California Constitution. The findings and conclusions of the commission on questions of fact are final and are not subject to review, except as provided in this article. These questions of fact shall include ultimate facts and the findings and conclusions of the commission. A report prepared by, or an approval of, the commission pursuant to Section 25510, 25514, 25516, or 25516.5, or subdivision (b) of Section 25520.5, shall not constitute a decision of the commission subject to judicial review.

(c) Subject to the right of judicial review of decisions of the commission, no court in this state has jurisdiction to hear or determine any case or controversy concerning any matter which was, or could have been, determined in a proceeding before the commission, or to stop or delay the construction or operation of any thermal powerplant except to enforce compliance with the provisions of a decision of the commission.

(d) Notwithstanding Section 1250.370 of the Code of Civil Procedure:

(1) If the commission requires, pursuant to subdivision (a) of Section 25528, as a condition of certification of any site and related facility, that the applicant acquire development rights, that requirement conclusively establishes the matters referred to in Sections 1240.030 and 1240.220 of the Code of Civil Procedure in any eminent domain proceeding brought by the applicant to acquire the development rights.

(2) If the commission certifies any site and related facility, that certification conclusively establishes the matters referred to in Sections 1240.030 and 1240.220 of the Code of Civil Procedure in any eminent domain proceeding brought to acquire the site and related facility.

(e) No decision of the commission pursuant to Section 25516, 25522, or 25523 shall be found to mandate a specific supply plan for any utility as prohibited by Section 25323.

§ 25532. Monitoring system

The commission shall establish a monitoring system to assure that any facility certified under this division is constructed and is operating in compliance with air and water quality, public health and safety, and other applicable regulations, guidelines, and conditions adopted or established by the commission or specified in the written decision on the application. In designing and operating the monitoring system, the commission shall seek the cooperation and assistance of the State Air Resources Board, the State Water Resources Control Board, the Department of Health, and other state, regional, and local agencies which have an interest in environmental control.

§ 25533. Blank

§ 25534. Amendment or revocation of certification; grounds

(a) The commission may, after hearings, amend the conditions of, or revoke the certification for, any facility for any of the following reasons:

(1) Any material false statement set forth in the application, presented in proceedings of the commission, or included in supplemental documentation provided by the applicant.

(2) Any significant failure to comply with the terms or conditions of approval of the application, as specified by the commission in its written decision.

(3) A violation of this division or any regulation or order issued by the commission under this division.

(b) The commission may also administratively impose a civil penalty for a violation of paragraph (1) or (2) of subdivision (a). Any civil penalty shall be imposed in accordance with Section 25534.1 and may not exceed fifty thousand dollars (\$50,000) per violation, except that the civil penalty may be increased by an amount not exceeding one thousand dollars (\$1,000) per day for each day in which the violation occurs or persists, but the total of the per day penalties shall not exceed twenty-five thousand dollars (\$25,000).

§ 25534.1. Complaint; hearing; orders; amount of penalty

(a) The executive director of the commission may issue a complaint to any person or entity on whom an administrative civil penalty may be imposed pursuant to Section 25534. The complaint shall allege the act or failure to act for which the civil penalty is proposed, the provision of law authorizing civil liability, and the proposed civil penalty.

(b) The complaint shall be served by personal notice or certified mail, and shall inform the party so served that a hearing will be conducted within 60 days after the party has been served. The hearing shall be before the commission. The complainant may waive the right to a hearing, in which case the commission shall not conduct a hearing.

(c) After any hearing, the commission may adopt, with or without revision, the proposed decision and order of the executive director.

(d) Orders setting an administrative civil penalty shall become effective and final upon issuance thereof, and any payment shall be made within 30 days. Copies of these orders shall be served by personal service or by registered mail upon the party served with the complaint and upon other persons who appeared at the hearing and requested a copy.

(e) In determining the amount of the administrative civil penalty, the commission shall take into consideration and nature, circumstance, extent, and gravity of the violation or violations, whether the violation is susceptible to removal or resolution, the cost to the state in pursuing the enforcement action, and with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary removal or resolution efforts undertaken, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and such other matters as justice may require.

§ 25534.2. Review; collection of penalties; deposit of moneys recovered

(a) Within 30 days after service of an order issued under Section 25534.1, any aggrieved party may file with the superior court a petition for writ of mandate for review thereof pursuant to Section 1094.5 of the Code of Civil Procedure. If no aggrieved party petition for a writ of mandate is filed within the time provided by this section, an order of the commission is not subject to review by any court or agency, except that the commission may grant review on its own motion of an order issued under Section 25534.1 after the expiration of the time limits set by this section.

(b) Upon request of the commission, the Attorney General shall institute an action in the appropriate superior court to collect and recover any administrative civil penalties imposed pursuant to Section 25534.1. The court shall accord priority on its calendar to any action under this subdivision.

(c) Any moneys recovered by the commission pursuant to this section shall be deposited in the General Fund.

§ 25535. Costs for ratemaking purposes

Such reasonable and direct costs as the applicant incurs to comply with the provisions of this chapter shall be allowed for ratemaking purposes.

§ 25536. Repealed

§ 25537. Approval of application; submission of information to federal agencies

Upon approval of an application, the commission shall forward to the United States Nuclear Regulatory Commission, the Environmental Protection Agency, and to other appropriate

federal agencies, the results of its studies including the environmental impact report on the facility, the written decision on the facility contained in the application, and the commission's determination of facility safety and reliability as provided in Section 25511.

§ 25538. Reviewal by local agencies; fees; lost permit fees; reimbursement

Upon receiving the commission's request for review under subdivision (f) of Section 25519 and Section 25506, the local agency may request a fee from the commission to reimburse the local agency for the actual and added costs of this review by the local agency. The commission shall reimburse the local agency for the added costs that shall be actually incurred by the local agency in complying with the commission's request. The local agency may also request reimbursement for permit fees that the local agency would receive but for the operation of Section 25500, provided, however, that such fees may only be requested in accordance with actual services performed by the local agency. The commission shall either request a fee from the person proposing the project or devote a special fund in its budget, for the reimbursement of such costs incurred by local agencies.

§ 25539. Rules and regulations

In reviewing notices and applications for certification of modifications of existing facilities, the commission shall adopt rules and regulations as necessary to insure that relevant duties pursuant to this division are carried out.

§ 25540. Geothermal powerplant and related facilities; alternative sites and related facilities; notice; findings; final decision

If a person proposes to construct a geothermal powerplant and related facility or facilities on a site, the commission shall not require three alternative sites and related facilities to be proposed in the notice. Except as otherwise provided, the commission shall issue its findings on the notice, as specified in Section 25514, within nine months from the date of filing of such notice, and shall issue its final decision on the application, as specified in Section 25523, within nine months from the date of the filing of the application for certification, or at such later time as is mutually agreed to by the commission and the applicant or person submitting the notice or application.

§ 25540.1. Geothermal powerplant and related facilities; acceptance of notice or application; incomplete notice or application

The commission shall determine, within 30 days after the receipt of a notice or application for a geothermal powerplant, whether the notice or application is complete. If the notice or application is determined not to be complete, the commission's determination shall specify, in writing, those parts of the notice or application which are incomplete and shall indicate the manner in which it can be made complete. Within 30 days after receipt of the applicant's filing with the commission the additional information requested by the commission to make the notice or application complete, the commission shall determine whether the subsequent filing is sufficient to complete the notice or application. A notice or application shall be deemed filed for purposes of Section 25540 on the date the commission determines the notice or application is completed if the commission has adopted regulations specifying the informational requirements for a complete notice or application, but if the commission has not adopted regulations, the notice or application shall be

deemed filed on the last date the commission receives any additional data that completes the notice or application.

§ 25540.2. Geothermal powerplant and related facilities; proposed construction; notice of intention; final decision; copies of application for certification

Notwithstanding any other provision of law:

(a) If an applicant proposes to construct a geothermal powerplant at a site which, at the outset of the proceeding, the applicant can reasonably demonstrate to be capable of providing geothermal resources in commercial quantities, no notice of intention pursuant to Section 25502 shall be required, and the commission shall issue the final decision on the application, as specified in Section 25523, within 12 months after acceptance of the application for certification of a geothermal powerplant and related facilities, or at such later time as is mutually agreed by the commission and the applicant.

(b) Upon receipt of an application for certification of a geothermal powerplant and related facilities, the commission shall transmit a copy of the application to every state and local agency having jurisdiction over land use in the area involved.

§ 25540.3. Geothermal powerplant and related facilities; application; contents; electric generating potential in excess of capacity proposed for initial construction; potential multiple facility site

(a) An applicant for a geothermal powerplant may propose a site to be approved that will accommodate a potential maximum electric generating capacity in excess of the capacity being proposed for initial construction. In addition to the information concerning the initial powerplant and related facilities proposed for construction required pursuant to Section 25520, such application shall include all of the following, to the extent known:

(1) The number, type, and energy source of electric generating units which the site is proposed ultimately to accommodate and the maximum generating capacity for each unit.

(2) The projected installation schedule for each unit.

(3) The impact of the site, when fully developed, on the environment and public health and safety.

(4) The amount and sources of cooling water needed at the fully developed site.

(5) The general location and design of auxiliary facilities planned for each stage of development, including, but not limited to pipelines, transmission lines, waste storage and disposal facilities, switchyards, and cooling ponds, lakes, or towers.

(6) Such other information relating to the design, operation, and siting of the facility as the commission may by regulation require.

(b) If an application is filed pursuant to subdivision (a) which proposes a site to be approved which will accommodate a potential maximum electric generating capacity in excess

of the capacity being proposed for initial construction, the commission may, in its decision pursuant to subdivision (a) of Section 25540.3, either certify only the initial facility or facilities proposed for initial construction or may certify the initial facility or facilities and find the site acceptable for additional generating capacity of the type tentatively proposed. The maximum allowable amount and type of such additional capacity shall be determined by the commission.

If the decision includes a finding that a particular site is suitable to accommodate a particular additional generating capacity, the site shall be designated a potential multiple facility site. The commission may, in determining the acceptability of a potential multiple facility site, specify conditions or criteria necessary to ensure that future additional facilities will not exceed the limitations of the site.

§ 25540.4. Potential multiple facility site; decision on application for additional site; reconsideration of prior determination; environmental impact report; time

Notwithstanding any other provision of law:

(a) The decision of the commission on an application for an additional facility at a potential multiple facility site shall be issued within three months after the acceptance of the application or at such later time as is mutually agreed upon by the commission and the applicant.

(b) In reviewing an application for an additional facility at a potential multiple facility site, the commission may, upon a showing of good cause, undertake a reconsideration of its prior determination in the final report for the site pursuant to Section 25514 or its decision pursuant to Section 25523 based on current conditions and other reasonable alternatives to the proposed facility. Such reconsideration must be completed within seven months after acceptance of such application for an additional facility.

(c) The commission shall, pursuant to Section 21100.2, provide by resolution or order for completing and certifying the environmental impact report within the time limits established by subdivisions (a) and (b).

§ 25540.5. Geothermal powerplant and related facilities; certification; delegation to county; revocation

The commission may, at the petition of a county which has adopted a geothermal element for its general plan, approve an equivalent certification program which delegates to that county full authority for the certification of all geothermal powerplants within such county. Once approved by the commission, the equivalent certification program shall replace and supersede the procedures for certification of all geothermal powerplants and related facilities, pursuant to Sections 25540 to 25540.4, inclusive, to be located within such county. The commission may, after public hearings, revoke the approved equivalent certification program of such county if the commission finds that the program does not comply with current commission certification requirements. The equivalent certification program shall include, but not be limited to, provisions for all of the following:

(a) Certification of geothermal areas as potential multiple facility sites, if so applied for.

(b) Processing of applications in less than 12 months.

(c) Periodic review and updating of the program by the county as may be required by law and the commission.

(d) Appeal procedures, including appeals to the commission on substantive issues. In any such appeal on a substantive issue, the commission shall determine whether the act or decision is supported by substantial evidence in the light of the whole record. The commission shall determine, within 15 days of receipt of an appeal, whether the appeal has merit and whether action should be taken.

(e) Input and review by other relevant public agencies and members of the public.

(f) Public hearing procedures equivalent to those specified in Article 6 (commencing with Section 65350) of Chapter 3 of Title 7 of the Government Code.

§ 25540.6. Thermal powerplants on which commission must issue final decision on application within 12 months

(a) Notwithstanding any other provision of law, no notice of intention is required, and the commission shall issue its final decision on the application, as specified in Section 25523, within 12 months after the filing of the application for certification of the powerplant and related facility or facilities, or at any later time as is mutually agreed by the commission and the applicant, for any of the following:

(1) A thermal powerplant which will employ cogeneration technology, a thermal powerplant which is the result of a competitive solicitation or negotiation for new generation resources and will employ natural gas-fired technology, or a solar thermal powerplant.

(2) A modification of an existing facility.

(3) A thermal powerplant which it is only technologically or economically feasible to site at or near the energy source.

(4) A thermal powerplant with a generating capacity of up to 100 megawatts.

(5) A thermal powerplant designed to develop or demonstrate technologies which have not previously been built or operated on a commercial scale. Such a research, development, or commercial demonstration project may include, but is not limited to, the use of renewable or alternative fuels, improvements in energy conversion efficiency, or the use of advanced pollution control systems. Such a facility may not exceed 300 megawatts unless the commission, by regulation, authorizes a greater capacity. Section 25524 does not apply to such a powerplant and related facility or facilities.

(b) Projects exempted from the notice of intention requirement pursuant to paragraph (1), (4), or (5) of subdivision (a) shall include, in the application for certification, a discussion of the applicant's site selection criteria, any alternative sites that the applicant considered for the project, and the reasons why the applicant chose the proposed site. That discussion shall not be required for cogeneration projects at existing industrial sites. The commission may also accept an application for a noncogeneration project at an existing industrial site without requiring

a discussion of site alternatives if the commission finds that the project has a strong relationship to the existing industrial site and that it is therefore reasonable not to analyze alternative sites for the project.

§ 25541. Thermal-powerplants; exemption from provisions of chapter; conditions

The commission may exempt from this chapter thermal powerplants with a generating capacity of up to 100 megawatts and modifications to existing generating facilities which do not add capacity in excess of 100 megawatts, if the commission finds both of the following:

(a) No substantial adverse impact on the environment or energy resources will result from the construction or operation of the proposed facility or from the modifications.

(b) Generating capacity will not be added which is substantially in excess of the integrated assessment of need for new resource additions determined pursuant to subdivision (a) to (f), inclusive, of Section 25305 and adopted pursuant to Section 25308 which would be applicable to the project pursuant to subdivision (f) of Section 25523.

§ 25541.1. Thermal powerplants using resource recovery technology; legislative encouragement

It is the intent of the Legislature to encourage the development of thermal powerplants using resource recovery (waste-to-energy) technology. Previously enacted incentives for the production of electrical energy from nonfossil fuels in commercially scaled projects have failed to produce the desired results. At the same time, the state faces a growing problem in the environmentally safe disposal of its solid waste. The creation of electricity by a thermal powerplant using resource recovery technology addresses both problems by doing all of the following:

- (a) Generating electricity from a nonfossil fuel of an ample growing supply.
- (b) Conserving landfill space, thus reducing waste disposal costs.
- (c) Avoiding the health hazards of burying garbage.

Furthermore, development of resource recovery facilities creates new construction jobs, as well as ongoing operating jobs, in the communities in which they are located.

§ 25541.5. Regulatory program; certification

The commission shall, not later than January 31, 1979, adopt regulations pursuant to this chapter which comply with all the requirements of this chapter and Section 21080.5 and shall submit a regulatory program to the Secretary of the Resources Agency for certification pursuant to Section 21080.5. After certification by the Secretary of the Resources Agency, the commission shall amend such regulatory program from time to time, as necessary to permit the Secretary to continue to certify the program.

§ 25542. Inapplicability of division to certain sites and facilities; power of commission ineffective

In the case of any site and related facility or facilities for which the provisions of this division do not apply, the exclusive power given to the commission pursuant to Section 25500 to certify sites and related facilities shall not be in effect.

CHAPTER 7. RESEARCH AND DEVELOPMENT

§ 25600. Definitions

As used in this chapter:

(a) "Passive thermal system" means a system which utilizes the structural elements of a building and is not augmented by mechanical components to provide for collection, storage and distribution of solar energy or coolness.

(b) "Semipassive thermal system" means a system which utilizes the structural elements of a building and is augmented by mechanical components to provide for collection, storage, and distribution of solar energy or coolness.

(c) "Solar device" means the equipment associated with the collection, transfer, distribution, storage, and control of solar energy.

(d) "Solar system" means the integrated use of solar devices for the functions of collection, transfer, storage, and distribution of solar energy.

(e) "Standard" means a specification of design, performance, and procedure, or of the instrumentation, equipment, surrounding conditions, and skills required during the conduct of a procedure.

§ 25601. Development and coordination of program; priorities

The commission shall develop and coordinate a program of research and development in energy supply, consumption, and conservation and the technology of siting facilities and shall give priority to those forms of research and development which are of particular importance to the state, including, but not limited to, all of the following:

(a) Methods of energy conservation specified in Chapter 5 (commencing with Section 25400).

(b) Increased energy use efficiencies of existing thermal electric and hydroelectric powerplants and increased energy efficiencies in designs of thermal electric and hydroelectric powerplants.

(c) Expansion and accelerated development of alternative sources of energy, including geothermal and solar resources, including, but not limited to, participation in large-scale demonstrations of alternative energy systems sited in California in cooperation with federal agencies, regional compacts, other state governments and other participants. For purposes of this subdivision, "participation" shall be defined as any of the following: (1) direct interest in a project, (2) research and development to insure acceptable resolution of environment and other impacts of alternative energy systems, (3) research and development to improve siting and permitting methodology for alternative energy systems; (4) experiments utilizing the alternative energy systems, and (5) research and development of appropriate methods to insure the widespread utilization of economically useful alternative energy systems. Large-scale demonstrations of alternative energy systems are exemplified by the 100 KWe to 100 MWe range demonstrations of solar, wind, and geothermal systems contemplated by federal agencies, regional compacts, other state governments, and other participants.

(d) Improved methods of construction, design, and operation of facilities to protect against seismic hazards.

(e) Improved methods of energy-demand forecasting.

(f) To accomplish the purposes of subdivision (c), an amount not more than one-half of the total state funds appropriated for the solar energy research and development program as proposed in the budget prepared pursuant to Section 25604 shall be allocated for large-scale demonstration of alternative energy systems.

§ 25602. Technical assessment studies

The commission shall carry out technical assessment studies on all forms of energy and energy-related problems, in order to influence federal research and development priorities and to be informed on future energy options and their impacts, including, in addition to those problems specified in Section 25601, but not limited to, the following:

(a) Advanced nuclear powerplant concepts, fusion, and fuel cells.

(b) Total energy concepts.

(c) New technology related to coastal and offshore siting of facilities.

(d) Expanded use of wastewater as cooling water and other advances in powerplant cooling.

(e) Improved methods of power transmission to permit interstate and interregional transfer and exchange of bulk electric power.

(f) Measures to reduce wasteful and inefficient uses of energy.

(g) Shifts in transportation modes and changes in transportation technology in relation to implications for energy consumption.

(h) Methods of recycling, extraction, processing, fabricating, handling, or disposing of materials, especially materials which require large commitments of energy.

(i) Expanding recycling of materials and its effect on energy consumption.

(j) Implications of government subsidies and taxation and rate setting policies.

(k) Utilization of waste heat.

(l) Use of hydrogen as an energy form.

(m) Use of agricultural products, municipal wastes, and organic refuse as an energy source.

Such assessments may also be conducted in order to determine which energy systems among competing technologies are most compatible with standards established pursuant to this division.

§ 25603. Energy conserving buildings

For research purposes, the commission shall, in cooperation with other state agencies, participate in the design, construction, and operation of energy-conserving buildings using data developed pursuant to Section 25401, in order to demonstrate the economic and technical feasibility of such designs.

§ 25603.5. State solar medallion passive design competition

(a) Pursuant to the duties of the commission described in subdivision (a) of Section 25401 and Section 25603, the commission shall conduct a statewide architectural design competition to select outstanding designs for new single-family and multifamily residential units which incorporate passive solar and other energy-conserving design features.

The purpose of the competition, to be known as the "State Solar Medallion Passive Design Competition", is to demonstrate the technical and economic feasibility of passive solar design for residential construction, to speed its commercialization, and to promote its use by developers in housing for moderate income families in the state. The competition shall be carried out with the assistance and cooperation of the office of the State Architect.

(b) The competition shall be conducted for each of the state's six regional climate zones. Each climate zone shall have the following four categories of competition:

(1) Single-family dwellings. The construction costs of these dwellings shall not exceed thirty-five thousand dollars (\$35,000) and the market price, inclusive of land, construction, permits, fees, overhead and profit shall not exceed fifty-five thousand dollars (\$55,000); provided that, if the commission determines that, as of the date construction is completed, the cost of housing construction in this state has increased due to economic inflation since January 1, 1979, the commission may increase these sums by the amount of such inflation as indicated by the construction cost index.

(2) Single-family dwellings. The construction costs of these dwellings shall not exceed fifty-five thousand dollars (\$55,000) and the market price, inclusive of land, construction, permits, fees, overhead and profit shall not exceed eighty-five thousand dollars (\$85,000); provided that, if the commission determines that, as of the date construction is completed, the cost of housing construction in this state has increased due to economic inflation since January 1, 1979, the commission may increase these sums by the amount of such inflation as indicated by the construction cost index.

(3) Multifamily housing units with a market price or rental value comparable to paragraph (1) of this subdivision.

(4) Multifamily housing units with a market price or rental value comparable to paragraph (2) of this subdivision.

(c) In order to qualify for the competition, entrants shall be a team composed of at least one member from each of the following categories:

(1) A building designer or architect.

(2) A builder, developer, or contractor.

(d) With submission of designs to the competition, all entrants shall agree to comply with the following provisions, if awarded the Solar Medallion or the first place prize in any category:

(1) To build five models of the winning design for single-family home categories if the builder, developer, or contractor member of the winning team constructed more than 30 single-family detached units during the one-year period ending on the date of the award, or

(2) To build three models of the winning design for single-family home categories if the builder, developer, or contractor member of the winning team constructed 30 or fewer single-family detached units during the one-year period ending on the date of the award, or

(3) To build one model of the winning design for all multifamily categories.

(4) To commence construction within 18 months of the announcement of awards.

(5) To permit the commission to install monitoring equipment for measuring energy conservation performance of the structure on all models constructed in compliance with paragraphs (1), (2), and (3) of this subdivision.

(6) To permit the commission to document, exhibit, and publicize the constructed designs.

All models of winning designs shall be built on the site or sites described in the submission or on an alternate site or sites with comparable features.

Cash awards to authors of the winning designs may be made prior to commencement of the agreed upon construction.

All winning designs in the competition shall become the property of the state and may be published and exhibited by the state after completion of competition.

(e) The judging panel for the competition shall consist of the following five jurors:

- (1) One representative of the Office of the State Architect.
- (2) One representative of the commission.
- (3) One certificated architect.
- (4) One representative of the state's lending institutions.
- (5) One developer, builder, or contractor.

The nonagency members shall be appointed by the State Architect.

In recognition of the wide variation in construction costs statewide, and in order to ensure fair and equitable competition in all areas of the state, a cost index shall be used to determine different construction cost and market price requirements for each category of competition in the major metropolitan areas of the state. The construction cost and market price figures specified in paragraphs (1) and (2) of subdivision (b) shall be used as the upper limit values on which the index shall be based. Construction cost and market price figures reflecting the diversity in costs in different areas of the state shall be determined in relation to upper limit values specified in this section.

The cost index shall be prepared by the Office of the State Architect and shall be published in the competition program.

The evaluation shall take place in two stages, with an initial technical review by the commission staff. The staff shall submit to the judging panel a rigorous technical assessment of the anticipated energy conservation performance of all submissions. Final selections shall be made by the judging panel.

Designs submitted to the competition shall be judged on the extent to which they satisfy the following criteria:

- (1) Use of passive solar and other energy conserving design features.
- (2) Amount of energy savings achieved by the design.
- (3) Adaptability of the design to widespread use.

(f) The commission shall be responsible for developing rules and procedures for the conduct of the competition and for the judging, which rules shall ensure anonymity of designs submitted prior to final awarding of prizes, shall ensure impartiality of the judging panel, and shall ensure uniform treatment of competitors.

In administering the competition, the commission shall accomplish the following tasks:

(1) Preparation of a competition program, including climatological data for each of the six regional climate zones.

(2) Distribution of competition information and ongoing publicity.

(3) Development of rules and procedures for competitors and judges.

(4) Preparation of a summary document for the competition, including a portfolio of winning designs and followup publicity.

(5) Instrumentation of winning dwellings constructed in accordance with requirements of this section; instrumentation for measurement of energy conservation performance of the units and ongoing data collection shall be provided by the commission pursuant to Section 25607.

For purposes of administering the competition, the commission shall contract with the Office of the State Architect for materials and services that cannot be performed by its staff.

(g) Cash awards to authors of the winning designs shall be made on the following basis:

Using the criteria in subdivision (e) of this section, the judging panel shall select, as follows:

(1) The most outstanding design statewide selected from among the first place winners in either of two single-family categories in any of the six climate zones which shall receive the State Solar Medallion Award and five thousand dollars (\$5,000) in addition to the cash award specified in paragraph (3) of this subdivision.

(2) The most outstanding design statewide selected from among the first place winners in either of the two multifamily categories in any of the six climate zones which shall receive the State Solar Medallion Award and five thousand dollars (\$5,000) in addition to the cash award specified in paragraph (3) of this subdivision.

(3) The first place designs in each of the four competition categories within each of the six climate zones, which shall each receive a cash award of five thousand dollars (\$5,000).

(4) The second place designs in each of the four competition categories within each of the six climate zones, which shall each receive a cash award of two thousand dollars (\$2,000).

§ 25603.7. Repealed

§ 25604. Biennial energy development trends reports

Commencing June 1, 1986, and every two years thereafter, the commission shall prepare and submit to the Governor and the Legislature a report describing energy development trends in this state, evaluating the status of both new and existing energy technologies, and specifying those most relevant to the state's needs and opportunities. The report shall identify barriers to further energy resource development, including siting and environmental problems, and provide policy recommendations including research, development, and demonstration needed to overcome these barriers to development. The report shall also include both of the following:

(a) The commission's determination, after generic proceedings, of the commercial availability of technologies for the generation of electrical energy or capacity, and a list of the issues which may affect the ability to employ these technologies at a proposed site.

(b) The commission's determination, after generic proceedings, of nongeneration technologies which are available or are reasonably expected to become available for use to reduce demand determined pursuant to subdivision (c) of Section 25305, and the issues which may affect the ability to employ these technologies to reduce demands.

§ 25605. Regulations governing solar devices

On or before November 1, 1978, the commission shall develop and adopt, in cooperation with affected industry and consumer representatives, and after one or more public hearings, regulations governing solar devices. The regulations shall be designed to encourage the development and use of solar energy and to provide maximum information to the public concerning solar devices. The regulations may include, but need not be limited to, any or all of the following:

(a) Standards for testing, inspection, certification, sizing, and installation of solar devices.

(b) Provisions for the enforcement of the standards. Such provisions may include any or all of the following:

(1) Procedures for the accreditation by the commission of laboratories to test and certify solar devices.

(2) Requirements for onsite inspection of solar devices, including specifying methods for inspection, to determine compliance or noncompliance with the standards.

(3) Requirements for submission to the commission of any data resulting from the testing and inspection of solar devices.

(4) Prohibitions on the sale of solar devices which do not meet minimum requirements for safety and durability as established by the commission.

(5) Dissemination of the results of the testing, inspection, and certification program to the public.

(c) In adopting the regulations, the commission shall give due consideration to their effect on the cost of purchasing, installing, operating and maintaining solar devices. The

commission shall reassess the regulations as often as it deems necessary, based upon the value of the regulations in terms of benefits and disadvantages to the widespread adoption of solar energy systems and the need to encourage creativity and innovative adaptations of solar energy. The commission may amend or repeal these regulations based on such reassessment.

(d) Under no circumstances may the commission preclude any person from developing, installing, or operating a solar device on his or her own property.

(e) Any violation of any regulation adopted by the commission pursuant to this section may be enjoined in the same manner as is prescribed in Chapter 10 (commencing with Section 25900) of this division for enjoining a violation of this division.

§ 25605.5. Building standards; adoption approval; enforcement

Standards adopted by the commission pursuant to Section 25605, which are building standards as defined in Section 25488.5, shall be submitted to the State Building Standards Commission for approval pursuant to, and are governed by, the State Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code). Building standards adopted by the commission and published in the State Building Standards Code shall comply with, and be enforced as provided in, Section 25605.

§ 25606. Repealed

§ 25607. Repealed

§ 25608. Conferences to coordinate adoption of regulations

The commission shall confer with officials of federal agencies, including the National Aeronautics and Space Administration, the National Institute of Standards and Technology, the Department of Energy, and the Department of Housing and Urban Development, to coordinate the adoption of regulations pursuant to Sections 25603, and 25605.

§ 25609. Effective date of regulations

The commission may, in adopting regulations pursuant to this chapter, specify the date when the regulations shall take effect. The commission may specify different dates for different regulations.

§ 25609.5. Building standards; approval of effective dates

The effective dates of building standards adopted by the commission pursuant to Section 25609 are subject to approval pursuant to the provisions of the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Part 13 of the Health and Safety Code.

§ 25610. Contracts for materials and services

For purposes of carrying out the provisions of this chapter, the commission may contract with any person for materials and services that cannot be performed by its staff or other state agencies, and may apply for federal grants or any other funding.

§ 25611. Repealed.

§ 25612. Repealed.

§ 25615. State program for development of solar technology in agriculture; energy conservation, renewable resource, and solar energy technologies assistance program; technical review committee; renewable resource energy agricultural account

(a) The Legislature hereby finds and declares that, during the last 50 years, inexpensive fossil fuels and electricity have created significant technology changes in the production of agricultural products. Fossil fuels have been substituted for labor, animal power, wind energy and solar energy technology in food and feed production and in the processing of California's agricultural commodities. Although the availability of inexpensive energy has fostered an intensive system of agriculture with higher crop yields and excellent productivity, our reliance on cheap energy has made the producers of agricultural products vulnerable to supply interruptions and skyrocketing price escalations.

(b) The Legislature further finds that the agricultural industry and consumers are faced with a challenge to maintain and even enhance the productivity of California agriculture through the development of renewable energy resources.

(c) The Legislature further finds that enhanced energy efficiency and conservation and development of renewable resource energy technologies are needed to replace and conserve fossil fuels and electricity in the production and processing of agricultural products. To develop such potential, a state program for assisting the development of solar technology in agriculture is necessary.

(d) The program, managed by the Department of Food and Agriculture in cooperation with the commission, shall include, but not be limited to, the following:

(1) An assessment of potential solar energy projects in California agriculture.

(2) Cooperation with the University of California in its ongoing extension program to provide information to ranchers, farmers, and food processors on the benefits of renewable resource technologies to agricultural processes and on the availability of financial incentives such as loans and tax credits. The department may contract with the university or other educational institutions or agricultural organizations for such information outreach services.

(3) Establishment of an energy conservation, renewable resource, and solar energy technologies assistance program in agriculture utilizing the resources and joint efforts of persons engaged in agriculture, food processors, cooperatives, and manufacturers and installers of solar and other energy conservation and renewable resource energy technologies, the university and colleges, and the government to demonstrate the effectiveness and economic viability of energy conservation and renewable resource energy technologies in agriculture. The assistance program shall include state financial incentives to encourage the rapid and widespread deployment of diverse energy conservation and renewable resource energy technologies in agriculture and food processing. State financial incentives may include, but shall not be limited to, state loans, loan guarantees, and leases and participating agreements for individuals, businesses, and public agencies for the purpose of stimulating the development and use of energy conservation and renewable resource energy technologies in agriculture. Energy conservation, solar applications, and renewable resource energy technologies eligible to receive state financial assistance shall include, but not be limited to, the following:

- (A) Solar energy for space and water heating and cooling and for process heat.
- (B) Wind energy for pumping and electrical generation of less than 100 kilowatts installed capacity.
- (C) Geothermal energy for direct heating and cooling applications.
- (D) Installation of hydroelectric generators of less than 100 kilowatts installed capacity on existing water storage and conveyance facilities such as dams, pipelines, and canals associated with agricultural water use.
- (E) Energy conservation technologies and associated equipment which have promising application and life-cycle cost effectiveness in the agricultural sector. Such technologies shall include, but not be limited to:
 - (i) Technologies that reduce heating, cooling, and refrigeration energy use.
 - (ii) Technologies that conserve water if their application will reduce energy use in water pumping.
 - (iii) Installation of more efficient electric motors for pumping, refrigeration, and other agricultural uses.
- (e) The Department of Food and Agriculture, in cooperation with the commission and the University of California, shall assist applicants in attempting to obtain all possible supplementary and complimentary assistance from other publicly or privately funded sources prior to authorizing any state assistance.
- (f) The Department of Food and Agriculture shall establish a technical review committee for the purpose of evaluating applications for financial assistance under this chapter. The department shall make awards of state financial assistance according to the decisions of the technical review committee. The members of the technical review committee shall consist of the following:
 - (1) One representative of the Department of Food and Agriculture appointed by the Director of Food and Agriculture.
 - (2) One representative of the commission appointed by the chairman of the commission.
 - (3) One representative of an agricultural organization appointed by the Director of Food and Agriculture.
 - (4) One representative of the University of California appointed by the president of the university.
 - (5) One public member with background and experience in agriculture appointed by the Director of Food and Agriculture.

(g) The Department of Food and Agriculture, after consultation with the technical review committee, shall establish criteria for the approval of applications for state financial assistance under this chapter. Such criteria shall include, but not be limited to, the following:

(1) Criteria requiring projects approved for financial assistance to be cost effective and establishing a method of determination of cost effectiveness.

(2) Criteria providing reasonable assurance of an applicant's ability to repay loans financed or guaranteed.

(3) Criteria concerning the terms and conditions of loans. The interest rate on loans made pursuant to this chapter shall not be less than 6 percent per year.

(4) Criteria establishing a maximum percentage of state-provided financial assistance for any project. In no case shall state financial assistance provide more than 90 percent of the total project cost.

(5) Criteria which will ensure that numerous conservation and renewable resources technologies are included in the program, and that concentration on two technologies is avoided.

(6) Criteria for the approval of equipment financed under the program. Such criteria may include requirements for equipment and installation warranties.

(7) Requirements that cost effective energy conservation measures be implemented in conjunction with renewable resource technologies.

(h) The Renewable Resource Energy Agricultural Account is hereby created in the General Fund. All moneys in such account shall be available for allocation by the Department of Food and Agriculture for the purposes of this section without regard to fiscal year when appropriated therefor by the Legislature. All moneys repaid pursuant to the provisions of this chapter shall be deposited in such account and shall thereupon become available for allocation for the purposes of this section when appropriated therefor by the Legislature.

Funds expended in any calendar year by the department from the account for administering the provisions of this chapter shall not exceed 5 percent of the total amount of financial assistance provided to applicants in that year.

§ 25616. Legislative intent; energy projects

(a) It is the intent of the Legislature to encourage local agencies to expeditiously review permit applications to site energy projects, and to encourage energy project developers to consider all cost-effective and environmentally superior alternatives that achieve their project objectives.

(b) Subject to the availability to funds appropriated therefor, the commission shall provide technical assistance and grants-in-aid to assist local agencies to do either or both of the following:

(1) Site energy production or transmission projects which are not otherwise subject to the provisions of Chapter 6 (commencing with Section 25500).

(2) Integrate into their planning processes, and incorporate into their general plans, methods to achieve cost-effective energy efficiency.

(c) The commission shall provide assistance at the request of local agencies and shall coordinate that assistance with the assistance provided by the Office of Permit Assistance, created pursuant to Section 65922.3.

(d) As used in this section, an energy project is any project designed to produce, convert, or transmit energy as one of its primary functions.

§ 25617. Legislative intent; diverse energy resources; development of diesel fuels

(a) It is the intent of the Legislature to preserve diversity of energy resources, including diversity of resources used in electric generation facilities, industrial and commercial applications, and transportation.

(b) The commission shall, within the limits of available funds, provide technical assistance and support for the development of petroleum diesel fuels which are as clean or cleaner than alternative clean fuels and clean diesel engines. That technical assistance and support may include the creation of research, development, and demonstration programs.

§ 25618. Facilitating development and commercialization of ultra low- and zero-emission electric vehicles

(a) The commission shall facilitate development and commercialization of ultra low- and zero-emission electric vehicles and advanced battery technologies, as well as development of an infrastructure to support maintenance and fueling of those vehicles in California. Facilitating commercialization of ultra low- and zero-emission electric vehicles in California shall include, but not be limited to, the following:

(1) The commission may, in cooperation with county, regional, and city governments, the state's public and private utilities, and the private business sector, develop plans for accelerating the introduction and use of ultra low- and zero-emission electric vehicles throughout California's air quality nonattainment areas, and for accelerating the development and implementation of the necessary infrastructure to support the planned use of those vehicles in

California. These plans shall be consistent with, but not limited to, the criteria for similar efforts contained in federal loan, grant, or matching fund projects.

(2) In coordination with other state agencies, the commission shall seek to maximize the state's use of federal programs, loans, and matching funds available to states for ultra low- and zero-emission electric vehicle development and demonstration programs, and infrastructure development projects.

(b) Priority for implementing demonstration projects under this section shall be directed toward those areas of the state currently in a nonattainment status with federal and state air quality regulations.

~~CHAPTER 7.1. HARVEY CLEAN FUEL AND CAMPUS RIDESHARE ACT [Repealed]~~

~~§§ 25620 to 25622. Repealed~~

CHAPTER 7.1 PUBLIC INTEREST ENERGY RESEARCH, DEMONSTRATION, AND DEVELOPMENT PROGRAM

§ 25620. Findings and declarations

The Legislature hereby finds and declares all of the following:

(a) It is in the best interests of the people of this state that the quality of life of its citizens be improved by providing environmentally sound, safe, reliable, and affordable energy services and products.

(b) To improve the quality of life of this state's citizens, it is proper and appropriate for the state to undertake public interest energy research, development, and demonstration projects that are not adequately provided for by competitive and regulated energy markets.

(c) Public interest energy research, demonstration, and development projects should advance energy science or technologies of value to California citizens and should be consistent with the policies of Chapter 854 of the Statutes of 1996.

(d) The commission should use its adopted "Strategic Plan for Implementing the Research, Demonstration, and Development Provisions of AB 1890" to ensure compliance with policies and provisions of Chapter 854 of the Statutes of 1996 in the administration of public interest energy research, demonstration, and development programs.

§ 25620.1. Creation of program; portfolio

(a) The commission shall develop, implement, and administer the Public Interest Research, Development, and Demonstration Program, which is hereby created. The program shall include a full range of research, development, and demonstration activities that, as determined by the commission, are not adequately provided for by competitive and regulated markets.

(b) The program shall consist of a balanced portfolio that addresses California's energy and environmental needs, technology opportunities, and system reliability. To achieve balance, the commission shall actively solicit applications for the underrepresented subject areas of end-use energy efficiency, renewable technologies, and environmental enhancements. The portfolio shall include the relevant core subject areas of environmental enhancements, end-use efficiency, environmentally-preferred advanced generation technologies, renewable technologies, and other strategic energy research, including public interest system reliability research, demonstration and development not adequately addressed by the Public Utilities Commission. The portfolio shall be reviewed annually by the commission through a public process. That annual review process shall consider technology status, development barriers, and expected benefits.

(c) The term "award," as used in this chapter, may include, but is not limited to, contracts, grants, loans, and other financial agreements designed to fund public interest research, demonstration, and development projects or programs.

§ 25620.2. Program criteria; administration; regulations

(a) The commission shall administer the program in a manner that is consistent with the purposes of Chapter 854 of the Statutes of 1996, and shall ensure that the program meets all of the following criteria:

(1) Demonstrates a balance of benefits to all sectors that contribute to the funding under Section 381 of the Public Utilities Code.

(2) Addresses key technical and scientific barriers.

(3) Demonstrates a balance between short-term, mid-term, and long-term potential.

(4) Ensures that research currently, previously, or about to be undertaken by research organizations is not unnecessarily duplicated.

(b) To ensure the efficient implementation and administration of the program, the commission shall do both of the following:

(1) Develop procedures for the solicitation of award applications for project or program funding, and to ensure efficient program management.

(2) Evaluate and select programs and projects, based on merit, that will be funded under the program.

(c) To ensure the success of electric industry restructuring in the transition to a new market structure and to implement the program, the commission shall adopt regulations, as

defined in subdivision (g) of Section 11342 of the Government Code, in accordance with the following procedures:

(1) Prepare a preliminary text of the proposed regulation and provide a copy of the preliminary text to any person requesting a copy.

(2) Provide public notice of the proposed regulation to any person who has requested notice of the regulations prepared by the commission. The notice shall contain all of the following:

(A) A clear overview explaining the proposed regulation.

(B) Instructions on how to obtain a copy of the proposed regulations.

(C) A statement that if a public hearing is not scheduled for the purpose of reviewing a proposed regulation, any person may request, not later than 15 days prior to the close of the written comment period, a public hearing conducted in accordance with the procedures set forth in Section 11346.8 of the Government Code.

(D) A deadline for the submission of written comments.

(3) Accept written public comments for 30 calendar days after providing the notice required in paragraph (2).

(4) Certify that all written comments were read and considered by the commission.

(5) Place all written comments in a record that includes copies of any written factual support used in developing the proposed regulation, including written reports and copies of any transcripts or minutes in connection with any public hearings on the adoption of the regulation. The record shall be open to public inspection and available to the courts.

(6) Provide public notice of any substantial revision of the proposed regulation at least 15 days prior to the expiration of the deadline for public comments and comment period using the procedures provided in paragraph (2).

(7) Conduct public hearings, if a hearing is requested by an interested party, that shall be conducted in accordance with the procedures set forth in Section 11346.8 of the Government Code.

(8) Adopt any proposed regulation at a regularly scheduled and noticed meeting of the commission. The regulation shall become effective immediately unless otherwise provided by the commission.

(9) Publish any adopted regulation in a manner that makes copies of the regulation easily available to the public. Any adopted regulation shall also be made available on the Internet. The commission shall transmit a copy of an adopted regulation to the Office of Administrative Law for publication, or, if the commission determines that printing the regulation is impractical, an appropriate reference as to where a copy of the regulation may be obtained.

(10) Notwithstanding any other provision of law, this subdivision provides an interim exception from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for regulations required to implement Sections 25621 and 25622 that are adopted under the procedures specified in this subdivision.

(11) This subdivision shall become inoperative on January 1, 2000, unless a later enacted statute deletes or extends that date. However, after January 1, 2000, the commission shall not be required to repeat any procedural step in adopting a regulation that has been completed before January 1, 2000, using the procedures specified in this subdivision.

§ 25620.3. Commission awards

The commission may, consistent with the requirements of Section 25620.2, provide awards to any individual or entity proposing a public interest research, demonstration, and development project or program.

§ 25620.4. Intellectual property

(a) To the extent that intellectual property is developed under this chapter, an equitable share of rights in the intellectual property or in the benefits derived therefrom shall accrue to the State of California.

(b) The commission may determine what share, if any, of the intellectual property, or the benefits derived therefrom, shall accrue to the state. The commission may negotiate sharing mechanisms for intellectual property or benefits with award recipients.

§ 25620.5. Application for awards; sealed bids; competitive negotiation process

(a) The commission may solicit applications for awards, using a sealed competitive bid, competitive negotiation process, multiparty agreement, single source, or sole source method.

(b) A sealed bid method may be used when goods and services to be acquired can be described with sufficient specificity so that bids can be evaluated against specifications and criteria set forth in the solicitation for bids.

(c) The commission may use a competitive negotiation process in any of the following circumstances:

(1) Whenever the desired contract is not for a fixed price.

(2) Whenever project specifications cannot be drafted in sufficient detail so as to be applicable to a sealed competitive bid.

(3) Whenever there is a need to compare the different price, quality, and contractual factors of the bids submitted.

(4) Whenever there is a need to afford bidders an opportunity to revise their proposals.

(5) Whenever oral or written discussions with bidders concerning the technical and price aspects of their proposals will provide better projects to the state.

(6) Whenever the price of the contract is not the determining factor.

(d) The commission may establish multiparty and interagency agreements with other entities to advance a defined research, development, and demonstration project purposes. The commission shall be a party to those agreements and shall share in the roles, responsibilities, risks, investments, and results of the agreement.

(e) The commission may choose from among two or more business entities capable of supplying or providing goods or services that meet a specified need of the commission. The cost to the state shall be reasonable and the commission shall only enter into a single source contract with a particular entity if the commission determines that it is in the state's best interests.

(f) The commission, in accordance with subdivision (g), may select projects on a sole source basis when the cost to the state is reasonable and when, in consultation with the Department of General Services, the commission makes any of the following determinations:

(1) The proposal was unsolicited and meets the evaluation criteria of this chapter.

(2) The expertise, service, or product is unique.

(3) The urgency of the need for the information or deliverable is such that a competitive solicitation would frustrate timely performance.

(4) The contract funds the next phase of a multiphased proposal and the existing agreement is being satisfactorily performed.

(5) When it is determined by the commission to be in the best interests of the state.

(g) The commission shall not utilize a sole source basis for a project pursuant to subdivision (f), unless both of the following conditions are met:

(1) The commission, at least 30 days prior to taking an action pursuant to subdivision (f), notifies the Joint Legislative Budget Committee, in writing of its intent to take the proposed action.

(2) The Joint Legislative Budget Committee either approves or fails to disapprove the proposed action within 30 days from the date of notification required by paragraph (1).

(h) The commission shall submit quarterly reports to the Legislative Analyst and to the appropriate fiscal and policy committees of the Legislature that review bills relating to energy and public utilities. The reports shall contain an evaluation of the progress and status of the implementation of this section.

(i) The provisions of this section are severable. If any provision of this section or its application is held to be invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

§ 25620.6. Insurance coverage

The commission, in consultation with the Department of General Services, may purchase insurance coverage necessary to implement an award. Funding for the purchase of insurance may be made from money in the Public Interest Research, Development, and Demonstration Fund created pursuant to Section 384 of the Public Utilities Code.

§ 25620.7. Technical and administrative support

The commission may contract for, or through interagency agreement obtain, technical or administrative services support to reduce the overhead and administrative costs of implementing the program. Funding for this purpose shall be made from money in the Public Interest Research, Development, and Demonstration Fund.

§ 25620.8 Annual reports

The commission shall prepare and submit to the Legislature an annual report on awards made pursuant to this chapter. The report shall include information on the names of award recipients, the amount of awards, and the types of projects funded, an evaluation of the success of any funded projects, and any recommendations for improvements in the program. The commission shall establish procedures for protecting confidential or proprietary information and shall consult with all interested parties in the preparation of the annual report.

§ 25620.9. Independent experts; duration of section

(a) Not later than January 1, 1999, the commission shall designate a panel of independent experts with special expertise in public interest research, development, and demonstration programs. The panel shall conduct a comprehensive evaluation of the program established pursuant to this chapter. The evaluation shall include a review of the public value of programs established pursuant to this chapter, and shall evaluate factors including, but not limited to, the monetary and nonmonetary benefits to public health and the environment of those programs, and the benefits of those programs in providing funds for technology development that would otherwise not be funded.

(b) Not later than March 31, 2000, the panel designated pursuant to subdivision (a) shall submit a preliminary report to the Governor and to the Legislature on its findings and recommendations on the implementation of the program established pursuant to this chapter. The panel, not later than March 31, 2001, shall submit a final report to the Governor and to the Legislature, including any additional findings and recommendations regarding implementation of the program.

(c) This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2002 deletes or extends that date.

CHAPTER 7.2 CLEAN FUELS ACCOUNT

§ 25625. Legislative findings and declarations

The Legislature finds and declares all of the following:

(a) Air pollution in California remains a significant threat to public health and the environment and urban areas are in need of special efforts to reduce harmful emissions.

(b) That recent studies have found that increasing levels of particulates and other pollutants from diesel engines are a major contributor to visibility and other air pollution problems, including acid deposition.

(c) That despite efforts to regulate emissions from heavy-duty diesel engines, harmful pollutants from these vehicles have proven difficult to control with current technology, and as a consequence, the implementation of more stringent emission standards may result in adverse effects on performance and fuel economy.

(d) That state and federal researchers have determined that methanol fuel has demonstrated the potential for significant air quality improvements beyond the levels which can be achieved by conventional gasoline and diesel engines, and that methanol fuel can be produced from a variety of abundant domestic energy sources, including natural gas, coal, and biomass.

(e) That reducing dependence on imported petroleum and increasing the security of transportation fuel supplies are important elements of the state's energy policy.

(f) That because of the potential environmental and energy security benefits of expanded methanol fuel use, along with the prospect of increased competitiveness of the fuels market, it is consistent with the goal of restitution to energy consumers for the Legislature to appropriate a portion of the state's allocation of petroleum violation escrow funds for methanol demonstration programs and for financial incentives to private industry and local governments to expand methanol fuel use.

§ 25626. Technology development and financial assistance program for expansion of methanol use as means of air pollution reduction

(a) The commission, in conjunction with the State Air Resources Board, shall carry out a program of technology development and financial assistance to expand the use of methanol fuel as a means of reducing air pollution, assuring the state's energy security, and increasing the competitiveness of fuel markets. The program shall include all of the following:

(1) A project demonstrating the technological and economic feasibility and environmental impacts of utilizing methanol fuel in heavy-duty diesel engines of 500 horsepower or less, as used by the state's trucking industry.

(2) A project demonstrating the technological and economic feasibility and environmental impacts of utilizing methanol fuel in heavy-duty diesel engines of 1000 horsepower or more, as used by railroad locomotives and marine vessels.

(3) Technical and financial assistance for public and private transit operators for the acquisition and operation of new and retrofitted methanol-powered transit buses.

(4) Technical and financial assistance for vehicle fleet operations of state and local agencies, and private rideshare programs, to underwrite the differential costs of the purchase of flexible fuel vehicles and the establishment of necessary fueling facilities. For purposes of this chapter, "flexible fuel vehicles" means vehicles which can operate on either alcohol fuels or premium unleaded gasoline, or a combination thereof.

(b) The program undertaken pursuant to this chapter shall be conducted with the maximum feasible financial and technical participation of private industry and other government agencies in order to assure that the risks and benefits of the program are shared with industry and other levels of government.

§ 25627. Clean fuels account, creation

The Clean Fuels Account is hereby created as a separate account in the General Fund.

§ 25628. Allocation of appropriation^{*}

The seven million five hundred thousand dollars (\$7,500,000) appropriated to the commission from the Clean Fuels Account by the act enacting this chapter shall be allocated for proposes of carrying out the program in Section 25626 as follows:

(a) Two million dollars (\$2,000,000) for technology demonstration programs for methanol-powered heavy-duty diesel engines under paragraphs (1) and (2) of subdivision (a) of Section 25626.

(b) Three million dollars (\$3,000,000) for financial assistance to public and private transit operators for the acquisition and operation of methanol-powered transit buses under paragraph (3) of subdivision (a) of Section 25626.

(c) Two million five hundred thousand dollars (\$2,500,000) for financial assistance to state and local agencies, and private rideshare programs, for the purchase of flexible fuel vehicles for fleet operations under paragraph (4) of subdivision (a) of Section 25626.

CHAPTER 7.3. SMALL BUSINESS ENERGY TECHNOLOGY LOAN PROGRAM

§ 25630. Small business energy assistance loan program

(a) The commission shall establish a small business energy assistance low-interest revolving loan program to fund the purchase of equipment for alternative technology energy projects for California's small businesses.

^{*} The Governor's message included in the chaptered version of this legislation reduced the total appropriation from \$7,500,000 to \$5,000,000. See Chapter 1340, Statutes of 1986.

(b) The loan program may use royalty agreements, as provided in Chapter 7.4 (commencing with Section 25645), to replenish program funds beyond the amount of loan repayment. Loan repayments, interest, and royalties shall be deposited in the Energy Technologies Research, Development, and Demonstration Account. The interest rate shall be determined as provided in subdivision (g) of Section 25647.

CHAPTER 7.4 ENERGY RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIALIZATION PROGRAMS

§ 25645. Short title

This chapter shall be known as, and may be cited as, the Energy Research, Development, Demonstration, and Commercialization Act of 1993.

§ 25646. Legislative findings and declarations

The Legislature hereby finds and declares all of the following:

(a) The state's growing population creates an increasing need to strengthen its infrastructure to achieve adequate economically and environmentally acceptable energy services systems.

(b) The condition of the state's economy makes it necessary to stretch the effective use of funds provided by state and federal government for energy research, development, demonstration, and commercialization projects by substituting loans for contract funding where possible, by requiring at least 50 percent cofunding of contract and grant-funded projects, and by requiring repayment of contract and grant funds when the cofunded work has become financially rewarding for the recipient.

(c) The placement of provisions relating to the administration of energy research, development, demonstration, and commercialization projects not otherwise provided for by statute in one comprehensive chapter enhances the ability of the commission to use the funds available for those projects with the greatest effectiveness, administrative efficiency, and likelihood of repayment.

(d) California's continued leadership in new energy technology research, development, and demonstration projects is a business and employment asset to the state, and is encouraged through effective partnership between the public and private sectors. New energy technologies have inherent financial and technical risks which limit necessary and important progress without state involvement.

(e) Energy sources and efficiency devices can be developed and offered on the market which provide energy services at lower competitive cost to the energy user, increase energy independence and reliability, make sustainable use of California's indigenous resources, provide a healthier environment, and rebuild the state's economy through employment opportunities in new technology businesses.

(f) Loans are an efficient use of funds, allowing the state to recoup the loan funds, thus promoting continuity of the state's commitment to energy research, development, demonstration, and commercialization programs.

(g) Research contracts and grants to small businesses, with repayment features, allows the state to recoup and replenish funds from financially successful energy projects and inventions, thus providing for the recycling of funds for energy technology advancement.

(h) Grants and loans provide small businesses with access to energy research, development, demonstration, and commercialization cofunding, while providing the state with a mechanism to cofund and administer small business projects with efficiency.

§ 25647. Definitions

For purposes of this chapter:

(a) "Alternative source of energy" includes, but is not limited to, geothermal power, hydroelectric power equal to or less than 5 megawatts, photovoltaics, wind, biomass, cogeneration, solar thermal energy, fuel cells, alternative fuels, electric vehicles, low-emission vehicles, advanced energy storage, and energy efficiency and conservation measures.

(b)(1) "Award repayment or program reimbursement agreement," including a "royalty agreement," as specified in paragraph (1) of subdivision (c), means a method used at the discretion of the commission to determine and establish the terms of replenishment of program funds, including, at a minimum, repayment of the award to provide for further awards under this chapter. The award repayment or program reimbursement agreement may provide that payments be made to the commission when the award recipient, affiliate of the award recipient, or third party receives, through any kind of transaction, an economic benefit from the project, invention, or product developed, made possible, or derived, in whole or in part, as a result of the award.

(2) An award repayment or program reimbursement agreement shall specify the method to be used by the commission to determine and establish the terms of repayment and reimbursement of the award.

(3) The commission may require due diligence of the award recipient and may take any action that is necessary to bring the project, invention, or product to market.

(4) Subject to the confidentiality requirements of Section 2505 of Title 20 of the California Code of Regulations, the commission may require access to financial, sales, and production information, and to other agreements involving transactions of the award recipient, affiliates of the award recipient, and third parties, as necessary, to ascertain the royalties or other payments due the commission.

(c)(1) A "royalty agreement" is an award repayment or program reimbursement agreement and is subject to all of the following conditions:

(A) The royalty rate shall be determined by the commission and shall not exceed 5 percent of the gross revenue derived from the project, invention, or product.

(B) The royalty agreement shall specify the method to be used by the commission to determine and establish the terms of payment of the royalty rate.

(C) The commission shall determine the duration of the royalty agreement and may negotiate a collection schedule.

(D) The commission, for separate consideration, may negotiate and receive payments to provide for an early termination of the royalty agreement.

(2)(A) The commission may require that the intellectual property developed, made possible, or derived, in whole or in part, as a result of the award repayment or program reimbursement agreement, revert to the state upon a default in the terms of the award repayment or program reimbursement agreement or royalty agreement.

(B) The commission may require advance notice of any transaction involving intellectual property rights.

(d) "Loan" means the contractual financing of a qualifying project under a program in which all of the following occur:

(1) The recipient of the loan repays the loan amount, plus accrued interest.

(2) The loan applicant is required to demonstrate the financial capability to repay the loan regardless of the commercial success of the project.

(3) The loan is required to be secured by appropriate collateral regardless of the commercial success of the project.

(4) Loans are generally provided to those projects using energy technologies that are relatively close to full commercialization, include demonstration or commercialization of the technologies, and have a high probability of generating revenue or other economic benefit sufficient to repay the loan and the accrued interest within 10 years from the performance determination date of the contract. A royalty agreement may be used to replenish program funds beyond the amount of the loan repayment.

(e) "Research contract" means a contractual award made to a qualifying project under a program in which all of the following occur:

(1) The award includes an award repayment or program reimbursement agreement.

(2) The award repayment or program reimbursement agreement specifies the method to be used by the commission in determining and establishing the terms of repayment and reimbursement of the award.

(3) Research contracts are provided for those projects that have a moderate to low probability of generating revenue or other economic benefit within 15 years from the performance determination date of the contract.

(f) "Grant" means a grant award made to a small business certified by the Office of Small and Minority Business of the Department of General Services, or which meets the requirements of

Part 121.601 of Title 13 of the Code of Federal Regulations, to cofund a qualifying project under a program in which all of the following occur:

- (1) The award includes an award repayment or program reimbursement agreement.
- (2) The award repayment or program reimbursement agreement specifies the method to be used by the commission in determining and establishing the terms of repayment and reimbursement.
- (g) "Accrued interest" means the cumulative interest on the outstanding balance of a loan, research contract, or grant. The commission shall specify in the terms of the award the manner in which the commission will compute the interest. Notwithstanding any other provision of law, the commission shall, unless it determines that the purposes of this chapter would be better served by establishing an alternative interest rate schedule, periodically set interest rates on the loans, research contracts, and grants based on surveys of existing financial markets and at rates not lower than the Pooled Money Investment Account. Interest shall begin accruing upon the date of first drawdown of funds.
- (h) "Performance determination date" means the date at which the commission renders a written decision on the success of the project in meeting the goals and objectives established in the loan, research contract, or grant.

§ 25648. Loans; research contract and grant awards; selection procedure

- (a) The commission shall make loans, and research contract and grant awards, for purposes of making existing energy technologies more efficient, cost-effective, and environmentally acceptable, and to research, develop, demonstrate, and commercialize new, cost-effective alternative sources of energy, technologies which displace conventional fuels, and energy efficiency and conservation devices.
- (b) In selecting projects, the commission shall consider, but is not limited to, the list of opportunity technologies developed in the most current energy development report produced pursuant to Section 25604, or a subset of those opportunity technologies.
- (c) The commission shall select the projects through competitive bid procedures, such as invitations for bids, requests for proposals, program opportunity notices, and multistep bids using preapplications, by demonstrating the need for sole source awards, or by evaluating small business grant and loan applications.
- (d) The criteria for the selection of projects shall include, but not be limited to, all of the following factors:
 - (1) The potential of the project to reduce energy consumption or provide an alternative source of energy.
 - (2) The financial, technical, and management strength of the project applicant.
 - (3) The near-term and long-term feasibility of the project.

- (4) The ability of the project technology to be used throughout California.
- (5) The potential of the project for promoting diverse, secure, and resilient energy supplies.
- (6) The potential of the project to displace petroleum.
- (7) The potential of the project for reducing adverse environmental impacts.
- (8) The potential of the project to stimulate economic development, employment, and tax revenues for California.
- (9) The potential of the project for reducing short-term and long-term energy costs for the ratepayers of California.
- (10) The need of the project for state financing.
- (11) The ability of the project to attract private and other public investment.
- (12) The investment payback period for the project.
- (13) The probability of success in overcoming the risk of the project.
- (14) The potential for stimulating small business competition in the field of alternative energy development.
- (15) The ability of the project to generate needed community economic development for participating local jurisdictions.
- (16) The extent of the applicant's financial participation.
- (17) The degree of innovation of the project.
- (18) Whether the project is, in general, consistent with the energy policies of California regarding the energy technologies and priorities as set forth in the biennial report of the commission.
- (19) The cost of the project.
- (e) The commission shall apply the criteria specified in subdivision (d) consistently within each competitive bid solicitation.
- (f) Loans, research contracts, and grants entered into pursuant to this section are not subject to Article 4 (commencing with Section 10335) or Article 5 (commencing with Section 10355) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code.

§ 25648.1 Recommendations; solicitation

In selecting projects and types of technologies for funding, the commission shall actively solicit recommendations from interested parties, including, but not limited to, representatives of

private industry, small businesses, research organizations, public utilities, independent energy producers, local governments, and the federal government.

§ 25648.2 Loans and research contract or grant funding; limits

(a) Any loan that is made shall not be greater than 80 percent of the total project cost. The commission may provide a loan which exceeds that limit if it determines, through a four-fifths vote of the commission, that a major state contribution is essential to ensure project success.

(b) The commission's contribution to any research contract or grant funding shall not be greater than 50 percent of the total project cost.

§25648.3 Repealed

§ 25648.4. Chapter application

The commission shall apply this chapter to research, development, demonstration, and commercialization projects that are not subject to Chapter 6 (commencing with Section 3800) of Division 3, and Chapter 7.8 (commencing with Section 25680) of this division.

§ 25648.5. Biennial report; project summary

The commission shall include a summary of projects financed under this chapter in its biennial report, or one of the subsidiary documents to the biennial report

§ 25648.6 Chapter duration

The chapter shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2005, deletes or extends that date.

CHAPTER 7.5 COAL GASIFICATION [Repealed]

§§ 25650 to 25655. Repealed

CHAPTER 7.6. CLEAN FUELS ACT [Repealed]

§§ 25675 to 25676. Repealed

CHAPTER 7.6. THE CLEAN COAL ACT [Repealed]

§§ 25675 to 25677. Repealed

CHAPTER 7.7. CLEAN FUELS ACT

§ 25678. Grant program providing incentive for liquid fuels fermented in state from biomass and biomass-derived resources; eligible liquid fuels; eligible biomass resources; rules and regulations

The commission shall establish a grant program which provides a forty cent (\$0.40) per gallon production incentive for liquid fuels fermented in this state from biomass and biomass-derived resources produced in this state. Eligible liquid fuels include, but are not limited to, ethanol, methanol, and vegetable oils. Eligible biomass resources include, but are not limited to, agricultural products and byproducts, forestry products and byproducts, and industrial wastes. The commission

shall adopt rules and regulations necessary to implement the program. Prior to determining an applicant eligible for participation in the production incentive program, the commission shall find, among other things, that the production techniques employed will lead to a net increase in the amount of energy available for consumption.

§ 25679. Application for grant

Applicants for a grant under this chapter shall submit an application on a form prescribed by the commission which is responsible for administration of the program.

**CHAPTER 7.8. ENERGY TECHNOLOGIES RESEARCH,
DEVELOPMENT, AND DEMONSTRATION**

§ 25680. Short title

This chapter shall be known and may be cited as the Rosenthal-Naylor Act of 1984.

§ 25681. Legislative findings and declarations

The Legislature hereby finds and declares all of the following:

(a) Additional energy supplies will be needed in the near future, in order to serve an increasing number of citizens.

(b) Energy sources should be developed which provide power at the lowest competitive cost to the ratepayer, which increase energy independence and system reliability through use of California's indigenous resources, which provide environmental benefits, and which build the state's economy.

(c) California's continued leadership in new energy technology research, development, and demonstration projects requires an active partnership between the public and private sectors, as well as flexible public financing tools which are responsive to changing technological events and commercialization impediments.

(d) The use of California's indigenous energy resources and alternative energy technologies can be made more efficient and cost-effective through increased research, development, and demonstration and can contribute to stabilizing and potentially reducing near-term energy costs for industry, agriculture, local governments, and individual citizens.

(e) Renewable energy sources can help lower the cost of energy if research, development, and demonstration efforts emphasize shortrun and longrun cost effectiveness.

(f) Advanced energy technologies have inherent financial and technical risks which limit necessary and important research, development, and demonstration in those areas without state involvement.

(g) State government can accelerate widespread market acceptance of new energy technologies by providing assistance to a limited number of projects with the intent of overcoming impediments, demonstrating technologies, and offering successful models for the private sectors to duplicate on its own.

(h) Increasing the efficiency and cost-effectiveness of existing and new energy sources will provide benefits to California citizens beyond energy costs. It will contribute to reduction of the state's dependence on foreign energy sources, stimulate the state economy, make our energy system more resilient and reliable, and continue to provide a healthier environment for our citizens.

(i) Loans offer an efficient, effective means of providing an economic incentive with distinct limits to stimulate energy project development for a broader range of market (end-use) applications, since the funds can be used more than once.

(j) Loans present a more efficient use of funds, allowing the state to achieve more from the original budget allocation, and to meet goals and objectives established in long-term energy policies approved in each fiscal year budget.

(k) Loans offer the state a mechanism to benefit from cofunding an energy project that encounters initial high capital costs followed by considerable net revenues use once the project is in operation.

(l) Loans strengthen the continuity of the state government's commitment from year to year and maintain the ability to share the costs of project development.

§ 25682. Definitions

For purposes of this chapter:

(a) "Account" means the Energy Technologies Research, Development, and Demonstration Account.

(b) "Alternative sources of energy" includes, but is not limited to, geothermal, hydroelectric power equal to or less than 5 megawatts, photovoltaics, wind, biomass, cogeneration, solar thermal, fuel cells, and energy efficiency measures.

(c)(1) "Award repayment or program reimbursement agreement," including a "royalty agreement," as specified in paragraph (1) of subdivision (d), means a method used at the discretion of the commission to determine and establish the terms of replenishment of program funds, including, at a minimum, repayment of the award to provide for further awards under this chapter. The award repayment or program reimbursement agreement may provide that payments be made to the commission when the award recipient, affiliate of the award recipient, or third party receives, through any kind of transaction, an economic benefit from the project, invention, or product developed, made possible, or derived, in whole or in part, as a result of the award.

(2) An award repayment or program reimbursement agreement shall specify the method to be used by the commission to determine and establish the terms of repayment and reimbursement of the award.

(3) The commission may require due diligence of the award recipient and may take any action that is necessary to bring the project, invention, or product to market.

(4) Subject to the confidentiality requirements of Section 2505 of Title 20 of the California Code of Regulations, the commission may require access to financial, sales, and production information, and to other agreements involving transactions of the award recipient, affiliates of the award recipient, and third parties, as necessary, to ascertain the royalties or other payments due the commission.

(d)(1) A "royalty agreement" is an award repayment or program reimbursement agreement and is subject to all of the following conditions:

(A) The royalty rate shall be determined by the commission and shall not exceed 5 percent of the gross revenue derived from the project, invention, or product.

(B) The royalty agreement shall specify the method to be used by the commission to determine and establish the terms of payment of the royalty rate.

(C) The commission shall determine the duration of the royalty agreement and may negotiate a collection schedule.

(D) The commission, for separate consideration, may negotiate and receive payments to provide for an early termination of the royalty agreement.

(2)(A) The commission may require that the intellectual property developed, made possible, or derived, in whole or in part, as a result of the award repayment or program reimbursement agreement, revert to the state upon a default in the terms of the award repayment or program reimbursement agreement or royalty agreement.

(B) The commission may require advance notice of any transaction involving intellectual property rights.

(e) "Loan" means the contractual financing of a qualifying project under the program, and in which the recipient of the loan repays the loan amount, plus accrued interest regardless of the commercial success of the project. Loans are generally to be provided to those projects that include energy technology systems that are relatively close to full commercialization, represent demonstrations of the technology, and have high probability of generating revenue or other economic benefit sufficient to repay the loan and the accrued interest within 10 years from the performance determination date of the contract. A royalty agreement may be used to replenish program funds beyond the amount of the loan repayment.

(f)(1) "Repayable research contract" means the contractual award made to a qualifying project under the program, and which is provided to those projects that are in the latter stages of technology development and have a moderate probability of generating revenue or other economic benefit within 15 years from the performance determination date of the contract.

(2) The repayable research contract shall include an award repayment or program reimbursement agreement.

(3) The repayable research contract shall specify the method to be used by the commission in determining and establishing the terms of repayment and reimbursement of the award.

(g)(1) "Primary research contract" means the contractual award made to a qualifying project under the program, and which is provided to those projects that are in the early stages of technology development and have a low probability of generating revenue or other economic benefit within 15 years from the performance determination date of the contract.

(2) The primary research contract shall include an award repayment or program reimbursement agreement.

(3) The primary research contract shall specify the method to be used by the commission in determining and establishing the terms of repayment and reimbursement of the award.

(h) "Performance determination date" means the date at which the commission renders a written decision on the success of the project in meeting the goals and objectives established in the contract for the project.

§ 25683. Energy technologies research, development, and demonstration account

(a) There is hereby created in the General Fund, to be administered by the commission, the Energy Technologies Research, Development, and Demonstration Account for the purpose of carrying out this chapter.

(b) The Controller shall deposit in the account all money appropriated to the account by the Legislature, plus accumulated interest on that money, and money from loan, research contract, and grant repayments and royalties, and loan, research contract, and grant interest repayments for use by the commission for financing energy research, demonstration, development, and commercialization projects funded under this chapter, Chapter 7.3 (commencing with Section 25630), and Chapter 7.4 (commencing with Section 25645). Funds shall be identified in accordance with the programmatic source of the funds.

§ 25684. Loans; research funding; selection procedure

The commission shall make loans and repayable research contracts, and may provide primary research contracts funding from the account for the purposes of making energy technologies more efficient and cost-effective, and to develop new cost-effective alternative sources of energy. The commission shall select recipients through a procedure using an invitation for bids or a request for proposals. Each invitation for bids and request for proposals shall specify the criteria to be used in selecting projects for financing. The criteria shall include, but not be limited to, all of the following factors:

(a) The potential of the project to reduce consumption and increase the efficiency of nonrenewable energy sources and systems.

(b) The financial, technical, and management strength of the project applicant.

- (c) The near-term and long-term feasibility of the project.
- (d) The ability of the project technology to be used on other applications throughout California.
- (e) The potential of the project for promoting diverse, secure, and resilient energy supplies.
- (f) The potential of the project for reducing adverse environmental impacts.
- (g) The potential of the project to stimulate economic development, employment, and tax revenues for California.
- (h) The potential of the project for reducing short-term and long-term energy costs for the ratepayers of California.
- (i) The need of the project for state financing.
- (j) The ability of the project to garner private investment.
- (k) The investment payback period for the project.
- (l) The probability of success in overcoming the risk of the project.
- (m) The potential for stimulating small business competition in the field of alternative energy development.
- (n) The ability of the project to generate needed community economic development for participating local jurisdictions.
- (o) The extent of the applicant's financial participation.
- (p) The degree of innovation of the project.
- (q) Whether the project is in general agreement with the energy policies of California regarding the energy technologies and priorities as set forth in the biennial report of the commission.

Contracts entered into pursuant to this section are not subject to Article 4 (commencing with Section 10335) or Article 5 (commencing with Section 10355) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code.

§ 25685. Energy technology projects; requirements

The energy technology projects to be considered for funding under this chapter shall include, but are not limited to, all of the following:

- (a) Low and medium temperature geothermal systems.
- (b) Advance cogeneration systems.

- (c) Fuel cells.
- (d) Coal combustion systems.
- (e) Advanced oil or gas combustion systems.
- (f) Methanol overfiring and coproduction.
- (g) Transmission system efficiency and reliability.
- (h) Photovoltaics.
- (i) Biomass gasification system.
- (j) Low and medium BTU gas technologies for electric generation.
- (k) Other alternative energy technologies.

§ 25686. Recommendations; solicitation

The commission shall actively solicit recommendations from interested parties, including, but not limited to, representatives of private industry, small businesses, research organizations, public utilities, independent energy producers, local governments, and the federal government in selecting the kinds of technologies for funding.

§ 25686.5. Allocation of funds

At the commencement of each fiscal year, at least 70 percent of the money in the account shall be made available for loans or repayable research contracts for projects and the remainder shall be made available for primary research contracts funding under this chapter for that fiscal year. The commission may make less than 70 percent of the money in the account at the commencement of each fiscal year available for loans, or repayable research contracts, if it determines, through a four-fifths vote of the commission, that the public interest and objectives of this chapter will be better served through increased primary research contracts funding. In no instance, however, shall the amount of funds available for loans or repayable research contracts be less than 50 percent of the money in the account at the commencement of each fiscal year.

§ 25686.8. Limits on loans and contract research funding

Any loan made from the account shall not be greater than 80 percent of the total project cost. Any repayable research contract or primary research contracts funding shall not be greater than 50 percent of the total project cost. The commission may provide a loan which exceeds that limit if it determines, through a four-fifths vote of the commission, that a major state contribution is essential to ensure project success.

§ 25687. Loan repayment

Notwithstanding any other provision of law, the commission shall unless it determines that the purposes of this chapter would be better served by establishing an alternative interest rate

schedule, periodically set interest rates on the loans based on surveys of existing financial markets and at rates not lower than the Pooled Money Investment Account. Loans shall be repaid within 20 years from receipt of the funds, as determined by the commission.

§ 25687.5. Funds for local jurisdictions

The commission shall make at least 10 percent of the funds in the account at the commencement of each fiscal year available to local jurisdictions. The commission may make less than 10 percent of the funds available for local jurisdictions, if it determines, through a four-fifths vote, that the public interest and the objectives of this chapter will be better served at a lower level.

§ 25687.6. Individual projects funding limit

Not more than 25 percent of the funds in the account at the commencement of each fiscal year shall be available for any individual project. However, the commission may make more than 25 percent of the funds available for an individual project, if it determines, through a four-fifths vote, that the public interest and the objectives of this chapter will be better served at the higher level.

§ 25687.7. Ineligible projects

No projects that are eligible for funding under Chapter 6 (commencing with Section 3800) of Division 3 shall be eligible for funding under this chapter.

§ 25688. Biennial Report: summary of projects

The commission shall include a summary of projects financed under this chapter in its biennial report, or one of the subsidiary documents to the biennial report.

§ 25689. Report

The commission shall prepare an extensive report examining the benefits to the people of this state from the research, development, and demonstration projects for which financing was provided under this chapter, and submit it to the Legislature on or before January 1, 1990.

§ 25690. Appropriation

The sum of six million dollars (\$6,000,000) is hereby appropriated and transferred to the account, of which one million dollars (\$1,000,000), for the 1984-85 fiscal year, and five million dollars (\$5,000,000), for the 1985-86 fiscal year, shall be from the Energy Resources Programs Account in the General Fund, for use by the commission to carry out this chapter. In the event that all or part of the one million dollars (\$1,000,000) appropriation from the Energy Resources Programs Account for the 1984-85 fiscal year is unavailable, the balance of the appropriation shall be made from the General Fund, not to exceed one million dollars (\$1,000,000) from both sources during the 1984-85 fiscal year.

§ 25690.5. Technical assistance, review and quality control of funded projects

The commission shall provide technical assistance, review and quality control of projects funded under this chapter. Beginning July 1, 1985, and each fiscal year thereafter, funds for administering this chapter shall be appropriated in the Budget Act from the State Energy Resources Programs Account.

§ 25691. Blank

§ 25692. Repayment deposits

(a) Notwithstanding any other provision of law, the commission shall deposit in the account any repayments, including equipment sales, interest, royalties, and loans, and contract funds appropriated to the commission for research, development, demonstration or commercialization of energy technologies. However, if repayments from equipment sales or contract funds were generated from a loan, research contract, or grant account which is still in existence, those repayments shall return to that specific loan, research contract, or grant account.

(b) The account shall be a revolving account with funds annually appropriated by the Legislature to the commission for disbursement over a three-year period. Additional funds, if necessary to carry out the purposes of this chapter, may be appropriated in the Budget Act.

§ 25693. Duration of chapter

This chapter shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2005, deletes or extends that date.

CHAPTER 7.9. ENERGY TECHNOLOGY AND ENERGY CONSERVATION

§ 25695. Legislative findings and declaration

In enacting this chapter, the Legislature hereby finds and declares all of the following:

(a) The development and commercialization of energy technologies and energy conservation is a vital element in meeting the state's energy needs.

(b) The continuing vitality of California's energy technology and energy conservation industry, as well as the maintenance of California's technological leadership in these energy systems, depends on the industry's ability to expand into new markets, including those in other countries. The expansion of California's energy technology and energy conservation industry into foreign markets will result in lower domestic prices, more stable growth, increased employment opportunities, and additional tax revenues.

(c) California's energy technology and energy conservation industry's entry into export markets is being inhibited by foreign-based competitors benefiting from extensive financial and technical support from their governments. Furthermore, small- to medium-sized energy firms are handicapped by high information costs and financial constraints.

(d) California-based energy technology and energy conservation firms seeking to expand into foreign markets can be substantially assisted by state efforts to disseminate international market data, foreign government regulatory information, and other material, and to provide technical assistance to facilitate export efforts.

(e) It is in the best interest of the state to increase the export of goods and services provided by California-based energy technology and energy conservation firms, particularly small- and medium-sized businesses, in a manner which coordinates with and augments existing private, state, and federal programs.

§ 25696. Export of technologies, products, and services to international markets; powers of commission to assist

The commission, in cooperation with the California State World Trade Commission and the California Department of Commerce, may assist California-based energy technology and energy conservation firms to export their technologies, products, and services to international markets.

The commission may, in coordination with the California State World Trade Commission, do all of the following:

(a) Conduct a technical assistance program to help California energy companies improve export opportunities and enhance foreign buyers' awareness of and access to energy technologies and services offered by California-based companies. Technical assistance activities may include, but are not limited to, an energy technology export information clearinghouse, a referral service, a trade lead service consulting services for financing, market evaluation, and legal counseling, and information seminars.

(b) Perform research studies and solicit technical advice to identify international market opportunities.

(c) Assist California energy companies to evaluate project or site-specific energy needs of international markets.

(d) Assist California energy companies to identify and address international trade barriers restricting energy technology exports, including unfair trade practices and discriminatory trade laws.

(e) Develop promotional materials in conjunction with California energy companies to expand energy technology exports.

(f) Establish technical exchange programs to increase foreign buyers' awareness of suitable energy technology uses.

(g) Prepare equipment performance information to enhance potential export opportunities.

(h) Coordinate activities with state, federal, and international donor agencies to take advantage of trade promotion and financial assistance efforts offered.

§ 25696.5. Conditions for reimbursement

(a) Every California-based energy technology and energy conservation firm awarded direct financial assistance pursuant to Section 25696 shall reimburse the commission for that assistance, when both of the following conditions have been met:

(1) The assistance was substantial and essential for the completion of a specific identifiable project.

(2) The resulting project is producing revenues.

(b) All moneys appropriated for purposes of this chapter and all moneys received by the commission as reimbursement under this section shall be deposited in the Energy Resources Programs Account and shall be available, when appropriated by the Legislature, for the purposes of this chapter.

§ 25697. Conducting overseas trade missions, shows, and exhibits; consultation

The commission shall consult with the California State World Trade Commission with respect to conducting overseas trade missions, trade shows, and trade exhibits. Consultation may include interagency agreements, cosponsorship, and memoranda of understanding for joint overseas trade activities.

§ 25698. Energy development report; requisites

The commission shall include in its energy development report prepared pursuant to Section 25604 a description of international energy market prospects and an evaluation of its export promotion activities, as well as an assessment of the state of the California energy technology and energy conservation industry's efforts to enter foreign markets. The energy development report

shall also include recommendations for state government initiatives to foster the California energy technology and energy conservation industry's competition in world markets.

CHAPTER 8. ENERGY SHORTAGE CONTINGENCY PLANNING

§ 25700. Development of plans

The commission shall, in accordance with the provisions of this chapter, develop contingency plans to deal with possible shortages of electrical energy or fuel supplies to protect public health, safety, and welfare.

§ 25701. Emergency load curtailment and energy distribution plans; preparation and submission by utilities, fuel wholesalers and manufacturers; governmental agencies

(a) Within six months after the effective date of this division, each electric utility, gas utility, and fuel wholesaler or manufacturer in the state shall prepare and submit to the commission a proposed emergency load curtailment plan or emergency energy supply distribution plan setting forth proposals for identifying priority loads or users in the event of a sudden and serious shortage of fuels or interruption in the generation of electricity.

(b) The commission shall encourage electric utilities to cooperate in joint preparation of an emergency load curtailment plan or emergency energy distribution plan. If such a cooperative plan is developed between two or more electric utilities, such utilities may submit such joint plans to the commission in place of individual plans required by subdivision (a) of this section.

(c) The commission shall collect from all relevant governmental agencies, including, but not limited to, the Public Utilities Commission and the Office of Emergency Services, any existing contingency plans for dealing with sudden energy shortages or information related thereto.

§ 25702. Submission of emergency plans to governor and legislature

The commission shall, after one or more public hearings, review the emergency load curtailment program plans or emergency energy supply distribution plans submitted pursuant to Section 25701, and, within one year after the effective date of this division, the commission shall approve and recommend to the Governor and the Legislature plans for emergency load curtailment and energy supply distribution in the event of a sudden energy shortage. Such plans shall be based upon the plans presented by the electric utilities, gas utilities, and fuel wholesalers or manufacturers, information provided by other governmental agencies, independent analysis and study by the commission, and information provided at the hearing or hearings. Such plans shall provide for the provision of essential services, the protection of public health, safety, and welfare, and the maintenance of a sound basic state economy. Provision shall be made in such plans to eliminate wasteful, uneconomic, and unnecessary uses of energy in times of shortages and to differentiate curtailment of energy consumption by users on the basis of ability to accommodate such curtailments. Such plans shall also specify the authority of and recommend the appropriate actions of state and local governmental agencies in dealing with energy shortages.

§ 25703. Certification of new facilities; review and revision of emergency plans

Within four months after the date of certification of any new facility, the commission shall review and revise the recommended plans based on additional new capacity attributed to any such facility. The commission shall, after one or more public hearings, review the plans at least every five years from the approval of the initial plan as specified in Section 25702.

§ 25704. Studies relating to potential energy shortages; recommendations

The commission shall carry out studies to determine if potential serious shortages of electrical, natural gas, or other sources of energy are likely to occur and shall make recommendations to the Governor and the Legislature concerning administrative and legislative actions required to avert possible energy supply emergencies or serious fuel shortages, including, but not limited to, energy conservation and energy development measures, to grant authority to specific governmental agencies or officers to take actions in the event of a sudden energy shortage, and to clarify and coordinate existing responsibilities for energy emergency actions.

§ 25705. Construction and use of emergency generating facilities; report

If the commission determines that all reasonable conservation, allocation, and service restriction measures may not alleviate an energy supply emergency, and upon a declaration by the Governor or by an act of the Legislature that a threat to public health, safety, and welfare exists and requires immediate action, the commission shall authorize the construction and use of generating facilities under such terms and conditions as specified by the commission to protect the public interest.

Within 60 days after the authorization of construction and use of such generating facilities, the commission shall issue a report detailing the full nature, extent, and estimated duration of the emergency situation and making recommendations to the Governor and the Legislature for further energy conservation and energy supply measures to alleviate the emergency situation as alternatives to use of such generating facilities.

**CHAPTER 8.2 REFINED PETROLEUM PRODUCTS
ALLOCATION [Repealed]**

§§ 25720 to 25732. Repealed

**CHAPTER 9. STATE ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT ACCOUNTS**

§ 25800. Renumbered

§ 25801. Energy resources programs account

There is in the General Fund in the State Treasury the Energy Resources Programs Account.

§ 25802. Proposed generating facilities; fee to accompany notice of intent

Each person who submits to the commission a notice of intent for any proposed generating facility shall accompany the notice with a fee of one cent (\$0.01) per kilowatt of net electric capacity of the proposed generation facility. Such fee shall only be paid on one of the alternate proposed facility sites which has the highest electrical designed capacity. In no event shall such fee be less than one thousand dollars (\$1,000) nor more than twenty-five thousand dollars (\$25,000).

For any other facility, the notice shall be accompanied by a fee of five thousand dollars (\$5,000). Such fee shall only be paid on one of the alternate proposed facility sites.

§ 25803. Deposit of funds; expenditures

All funds received by the commission pursuant to Section 25802, shall be remitted to the State Treasurer for deposit in the account. All funds in the account shall be expended for purposes of carrying out the provisions of this division, when appropriated by the Legislature in the Budget Act.

§ 25804. Energy resources programs account

All references in this division or any other provision of law to the State Energy Resources Conservation and Development Special Account shall be deemed referenced to the Energy Resources Programs Account.

§ 25805. Transfer to energy resources programs account

On July 1, 1983, all funds in the State Energy Resources Conservation and Development Reserve Account shall be transferred to the Energy Resources Programs Account.

CHAPTER 10. ENFORCEMENT AND JUDICIAL REVIEW

§ 25900. Injunction

Except as provided in Section 25531, whenever the commission finds that any provision of this division is violated or a violation is threatening to take place which constitutes an emergency requiring immediate action to protect the public health, welfare, or safety, the Attorney General, upon request of the commission, shall petition a court to enjoin such violation. The court shall have jurisdiction to grant such prohibitory or mandatory injunctive relief as may be warranted by way of temporary restraining order, preliminary injunction, and permanent injunction.

§ 25901. Writ of mandate for review; evidence; law governing

(a) Within 30 days after the commission issues its determination on any matter specified in this division, except as provided in Section 25531, any aggrieved person may file with the superior court a petition for a writ of mandate for review thereof. Failure to file such an action shall not preclude a person from challenging the reasonableness and validity of a decision in any judicial proceedings brought to enforce the decision or to obtain other civil remedies.

(b) The decision of the commission shall be sustained by the court unless the court finds (1) that the commission proceeded without, or in excess of its jurisdiction, (2) that, based exclusively upon a review of the record before the commission, the decision is not supported by substantial evidence in light of the whole record, or (3) that the commission failed to proceed in the manner required by law.

(c) Except as otherwise provided in this section, subdivisions (f) and (g) of Section 1094.5 of the Code of Civil Procedure shall govern proceedings pursuant to this section.

(d) The amendment of this section made at the 1989-90 Regular Session of the Legislature does not constitute a change in, but is declaratory of, existing law.

§ 25902. Evaluations, findings and determinations of commission; not reviewable by court

Any evaluations in the reports required by Section 25309 and any findings and determinations on the notice of intent pursuant to Chapter 6 (commencing with Section 25500) shall not be construed as a final evaluation, finding, or determination by the commission and a court action may not be brought to review any such evaluation, finding, or determination.

§ 25903. Review of decisions on certification; priority

If any provision of subdivision (a) of Section 25531, with respect to judicial review of the decision on certification of a site and related facility, is held invalid, judicial review of such decisions shall be conducted in the superior court subject to the conditions of subdivision (b) of Section 25531. The superior court shall grant priority in setting such matters for review, and the appeals from any such review shall be given preference in hearings in the Supreme Court and courts of appeal.

CHAPTER 10.5 INSULATION MATERIAL STANDARDS

§ 25910. Minimum standards for additional insulation in existing building

The commission shall, by regulation adopted no later than July 1, 1978, establish minimum standards for the amount of additional insulation (expressed in terms of R-value) installed in existing buildings. One year after the adoption of those standards, no insulation shall be installed in any existing building by a contractor unless the contractor certifies to the customer in writing that the amount of insulation (expressed in terms of R-value) meets or exceeds the minimum amount established by the standards. The minimum standards may vary for different types of buildings or building occupancies and different climate zones in the state. The minimum standards shall be economically feasible in that the resultant savings in energy procurement costs shall be greater than the cost of the insulation to the customer amortized over the useful life of the insulation.

§ 25911. Urea formaldehyde foam insulation regulations

The State Energy Resources Conservation and Development Commission may adopt regulations pertaining to urea formaldehyde foam insulation materials as are reasonably necessary to protect the public health and safety. These regulations may include, but are not limited to, prohibition of the manufacture, sale, or installation of urea formaldehyde foam insulation, requirements for safety notices to consumers, certification of installers, and specification of installation practices. Regulations adopted pursuant to this section shall be promulgated after public hearings in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Any regulation adopted by the commission to prohibit the sale and installation of urea formaldehyde foam insulation shall be based upon a record of scientific evidence which demonstrates the need for the prohibition in order to protect the public health and safety.

§ 25912. Actions prior to prohibition of sale and insulation of urea formaldehyde foam

Prior to adopting any regulation which causes a prohibition on the sale and installation of urea formaldehyde foam insulation, the commission shall consult with, and solicit written comments from, all of the following:

(a) Federal and state agencies with appropriate scientific staffs, including, but not limited to, the State Department of Health Services, the National Academy of Sciences, the United States Department of Housing and Urban Development, the United States Department of Energy, and the United States Consumer Product Safety Commission.

(b) Universities and public and private scientific organizations.

§§ 25913 to 25914. Blank

§§ 25915 to 25931. Repealed

CHAPTER 10.7 ENERGY EFFICIENT MORTGAGES

§ 25920. Legislative findings and declarations

The Legislature hereby finds and declares all of the following:

(a) The Energy Policy Act of 1992 (P.L. 102-486) directs the federal government to establish an energy efficient mortgage pilot program in five states to promote the purchase of existing energy efficient residential buildings and the installation of cost-effective improvements in existing residential buildings. The act also establishes a training program regarding the benefits of energy efficient mortgages and the operation of a pilot program, and authorizes the appropriation of federal funds to carry out those pilot programs and training programs.

(b) The high cost of housing is a critical problem in California, as less than one-half of California households can afford to buy a median-priced home.

(c) Reducing a home's monthly energy costs through energy efficiency improvements can make the home more affordable by increasing the homeowner's disposable income, which allows the homeowner to qualify for a higher mortgage and increases the number of Californians that can afford to buy a home.

(d) More than 60 percent of California homes were built before energy standards were adopted for new homes in the mid-1970s. These older homes are disproportionate energy consumers. The average home built in 1968 consumes twice the energy of a home built after 1983.

(e) A wide range of cost-effective energy efficiency improvements can be made to homes, resulting in lower energy use, lower utility energy bills, reduced societal demand for new energy sources, and reduced environmental degradation related to the generation of energy.

(f) Energy efficient mortgages provide money to fund energy efficiency improvements in residential homes, resulting in lower energy costs to the homeowner. Energy efficient mortgages also increase the number of Californians, particularly of low- and moderate-income, who can qualify for home financing, because the incremental increase in monthly mortgage cost is more than offset by lower monthly energy bills.

(g) Although energy efficient mortgages have been available for a number of years, they are rarely used because borrowers are unaware of their existence or of the benefits that they can provide, and most lenders and real estate licensees are unaware of, or unfamiliar with, the energy efficient mortgage.

(h) The 1992-93 California Energy Plan, endorsed by the Governor, recommends that the state support the marketing of mortgages that account for energy efficiency.

§ 25921. Additional legislative findings and declarations

The Legislature further finds and declares all of the following:

(a) It is in the interest of the people of this state that energy efficient mortgages be marketed and made available statewide, to increase awareness of their availability and their benefits.

(b) It is also in the interest of the state to seek to participate in federal government programs in this area, including energy efficient mortgage pilot and related training programs, and to seek federal funding to promote the use of energy efficient mortgages.

§ 25922. Development and implementation of pilot program

The commission shall develop and implement a pilot program to determine how best to inform homeowners and potential homeowners of the availability, methods, and benefits of obtaining an energy efficient mortgage.

§ 25923. Functions of pilot program

The pilot program shall be designed to do all of the following:

(a) Meet the eligibility requirements of the energy efficient mortgage pilot program and training program established by the federal government pursuant to the Energy Policy Act of 1992 (P.L. 102-486) if this state is chosen to participate in the federal government's pilot program.

(b) Familiarize mortgage lenders, real estate licensees, home appraisers, home inspectors, energy utilities, energy service providers, and other participants with the features of the energy efficient mortgage and the benefits that can result from its use.

(c) Identify and implement effective methods of informing the public of the availability and benefits of the energy efficient mortgage.

(d) Develop methods of incorporating the use of the energy efficient mortgage into the regular business practices of mortgage lenders, real estate licensees, home appraisers, home inspectors, and other persons involved in the sale, refinancing, and remodeling of residential real estate.

(e) Encourage the use of a home energy rating analysis as a precondition to qualification for an energy efficient mortgage.

(f) Identify obstacles to the use of energy efficient mortgages and recommend ways to mitigate or eliminate the obstacles.

§ 25924. Workshops and consultations

(a) The commission shall convene one or more workshops with mortgage lenders, real estate licensees, home appraisers, home inspectors, energy utilities, energy service providers, and other appropriate parties to solicit recommendations on the implementation of the pilot program. The commission shall encourage those parties to participate in the pilot program.

(b) The commission shall consult, as needed, with the Department of Financial Institutions, the Department of Real Estate, and the Department of Housing and Community Development in carrying out this chapter.

§ 25925. Report to the governor and legislature

The commission shall report to the Governor and the Legislature upon the completion of the pilot program. Copies of the report shall also be sent to the appropriate policy committees of the Legislature, including the housing committees of the Senate and the Assembly. The report shall include all of the following:

- (a) Results of the pilot program, including, but not limited to, the number of energy efficient mortgages used and the number of people who qualified for home financing as a result of using an energy efficient mortgage.
- (b) Obstacles to the use of energy efficient mortgages.
- (c) Recommendations on how to improve the use and effectiveness of energy efficient mortgages.

CHAPTER 10.8 HOME ENERGY AND LABELING PROGRAM

§ 25940. Repealed

§ 25941. Repealed

§ 25942. Statewide home energy rating criteria

(a) On or before July 1, 1995, the commission shall establish criteria for adopting a statewide home energy rating program for residential dwellings. The program criteria shall include, but are not limited to, all of the following elements:

(1) Consistent, accurate, and uniform ratings based on a single statewide rating scale.

(2) Reasonable estimates of potential utility bill savings, and reliable recommendations on cost-effective measures to improve energy efficiency.

(3) Training and certification procedures for home raters and quality assurance procedures to promote accurate ratings and to protect consumers.

(4) In coordination with home energy rating service organization data bases, procedures to establish a centralized, publicly accessible, data base that includes a uniform reporting system for information on residential dwellings, excluding proprietary information, needed to facilitate the program. There shall be no public access to information in the data base concerning specific dwellings without the owner's or occupant's permission.

(5) Labeling procedures that will meet the needs of home buyers, homeowners, renters, the real estate industry, and mortgage lenders with an interest in home energy ratings.

(b) The commission shall adopt the program pursuant to subdivision (a) in consultation with representatives of the Department of Real Estate, the Department of Housing and Community Development, the Public Utilities Commission, investor-owned and municipal utilities, cities and counties, real estate licensees, home builders, mortgage lenders, home appraisers and inspectors, home energy rating organizations, contractors who provide home energy services, consumer groups, and environmental groups.

(c) On and after January 1, 1996, no home energy rating services may be performed in this state unless the services have been certified, if such a certification program is available, by the commission to be in compliance with the program criteria specified in subdivision (a) and, in addition, are in conformity with any other applicable element of the program.

(d) On or before July 1, 1996, the commission shall consult with the agencies and organizations described in subdivision (b), to facilitate a public information program to inform homeowners, rental property owners, renters, sellers, and others of the existence of the statewide home energy rating program adopted by the commission.

(e) Beginning with the 1998 biennial energy conservation report required by Section 25401.1, the commission shall, as part of that biennial report, report on the progress made to

implement a statewide home energy rating program. The report shall include an evaluation of the energy savings attributable to the program, and a recommendation concerning which means and methods will be most efficient and cost-effective to induce home energy ratings for residential dwellings.

CHAPTER 11. GAS APPLIANCES

ARTICLE 1. DEFINITIONS

§ 25950. Gas appliance

"Gas appliance" means any new residential-type furnace, air conditioner, heater, refrigerator, stove, range, dishwasher, dryer, decorative fireplace log, or other similar device, except a water heater, which uses a gaseous fuel for operation and is automatically ignited.

§ 25951. Pilot light

"Pilot light" means any gas operated device that remains continually operated or lighted in order to ignite a gas appliance to begin normal operation.

§ 25952. Intermittent ignition device

"Intermittent ignition device" means an ignition device which is actuated only when the gas appliance is in operation.

§ 25953. Person; manufacturer; distributor; retail seller, retail outlets, seller, or retailer; contractor

As used in this chapter, the following terms have the following meanings:

(a) "Person" means any individual, partnership, corporation, limited liability company association, manufacturer, distributor, retailer, contractor or builder as defined in Section 7026 of the Business and Professions Code, or other groups, however organized, who sell or cause to be distributed or installed, any new gas appliance as defined in Section 25950.

(b) "Manufacturer" means any individual, partnership, corporation, association, or other legal relationship which manufacturers, assembles, produces, or gathers consumer goods.

(c) "Distributor" means any individual, partnership, corporation, association or other legal relationship which stands between the manufacturer and the retail seller in purchases, consignments or contracts for sale of consumer goods.

(d) "Retail seller," "retail outlets," "seller," or "retailer" means any individual, partnership, corporation, association, or other legal relationship which engages in the business of selling new goods to retail buyers.

(e) "Contractor" for the purpose of this chapter is synonymous with the term "builder" and, within the meaning of this chapter, a contractor is any person who undertakes to or offers to undertake to or purports to have the capacity to undertake to or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, moved, wreck or demolish any building, highway, road, parking facility, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith. The term "contractor" includes subcontractor and specialty contractor.

ARTICLE 2. GENERAL PROVISIONS

§ 25960. Sale of appliance with pilot lights; certification of alternative means

No new residential-type gas appliance that is equipped with a pilot light shall be sold the state after an alternate means has been certified by the commission. This prohibition shall become operative 24 months after an intermittent ignition device has been demonstrated and certified by the commission as an alternate means. The commission may determine, after demonstration, that there is no feasible alternative means to the use of pilot light or that the use of a pilot light is necessary for public health and safety.

§ 25960.5. Swimming pool heaters; equipped with intermittent ignition devices or designed to burn L.P. gases

Notwithstanding the prohibition contained in Section 25960, any swimming pool heater with a pilot light which was manufactured prior to February 24, 1984, and in stock or on order as of that date, may be sold in this state prior to December 1, 1984. On or after December 1, 1984, no swimming pool heater may be sold or offered for sale, unless it is equipped with an intermittent ignition device or is designed to burn only liquefied petroleum gases.

§ 25961. Specifications for certification of intermittent ignition devices

The commission shall, on or before January 1, 1976, develop in cooperation with affected industry and consumer representatives, who will be designated as such representatives by the commission, the specifications for certification of intermittent ignition devices which shall not significantly affect the price of gas appliances in competition with similar electrical appliances. The specifications shall be developed so as to result in the conservation of primary energy resources, shall include provisions necessary for public health and safety, and shall give due consideration to the initial costs, including installation and maintenance costs imposed upon the consumer.

§ 25962. Notice of pilot light prohibition

Within 90 days after an intermittent ignition device has been certified by the commission, the commission shall notify all gas appliance manufacturers doing business in the state, as to the prohibition of affected pilot lights and shall inform the manufacturers of the devices available to comply with this article.

§ 25963. Seal of certification

The commission shall create a seal of certification and shall distribute the seal to every manufacturer that complies with this article. The seal shall be affixed to every new appliance sold in the state.

§ 25964. Sale of appliance without seal of certification; building permits

After 24 months after an intermittent ignition device has been certified by the commission, no person shall sell or offer for sale in this state any new gas appliances, as defined in Section 25950, without obtaining the proper seal of certification from the commission, unless the commission otherwise permits such action. Beginning 24 months after an intermittent ignition device has been certified by the commission, no city or county, city and county, or state agency shall issue a permit for any building to be equipped with any new gas appliance, as defined in Section 25950, unless such building permit shows that the gas appliance complies with this chapter. However, any new gas appliance which does not comply with this chapter may be installed if the appliance was purchased pursuant to a contract executed prior to June 17, 1978, and if the building permit was approved prior to July 8, 1978.

§ 25965. Inspection of manufacturers, distributors, and retail outlets for compliance with article

After 24 months after an intermittent ignition device has been certified by the commission, the commission shall make periodic inspections of manufacturers and distributors of gas appliances and may inspect retail outlets, including gas appliances that have been or are to be installed by contractors or builders at building sites in order to determine their compliance with this article.

§ 25966. Violations; injunctions

Any person who violates or proposes to violate this chapter may be enjoined by any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practices which violate this chapter, or which may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of any practice which violates any provision of this chapter.

Actions for injunction under this section may be prosecuted by the Attorney General or any district attorney, county counsel, city attorney, or city prosecutor in this state in the name of the people of the State of California upon their own complaint or upon the complaint of any board, officer, person, corporation or association or by any person acting for the interests of itself, its members or the general public.

§ 25967. Civil penalties; disposition

(a) Any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction.

(b) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel, the entire amount of penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county and one-half to the city.

(c) If the action is brought at the request of the commission, the court shall determine the reasonable expenses incurred by the commission in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (b), the amount of such reasonable expenses incurred by the commission shall be paid to the State Treasurer.

§ 25968. Inspector's access to premises and records

Any inspector appointed or authorized by the commission shall have access to the premises, equipment, materials, partly finished and finished articles, and records of any person subject to the provisions of this chapter.

CHAPTER 12. SOLAR SHADE CONTROL

§ 25980. Short title; public policy

This chapter shall be known and may be cited as the Solar Shade Control Act. It is the policy of the state to promote all feasible means of energy conservation and all feasible uses of alternative energy supply sources. In particular, the state encourages the planting and maintenance of trees and shrubs to create shading, moderate outdoor temperatures, and provide various economic and aesthetic benefits. However, there are certain situations in which the need for widespread use of alternative energy devices, such as solar collectors, requires specific and limited controls on trees and shrubs.

§ 25981. Solar collector defined

As used in this chapter, "solar collector" means a fixed device, structure, or part of a device or structure, which is used primarily to transform solar energy into thermal, chemical, or electrical energy. The solar collector shall be used as part of a system which makes use of solar energy for any or all of the following purposes: (1) water heating, (2) space heating or cooling, and (3) power generation.

§ 25982. Prohibition of placement or growth of tree or shrub subsequent to installation of solar collector on property of another so as to cast shadow

After January 1, 1979, no person owning, or in control of a property shall allow a tree or shrub to be placed, or, if placed, to grow on such property, subsequent to the installation of a solar collector on the property of another so as to cast a shadow greater than 10 percent of the collector absorption area upon that solar collector surface on the property of another at any one time between the hours of 10 a.m. and 2 p.m, local standard time; provided, that this section shall not apply to specific trees and shrubs which at the time of installation of a solar collector or during the remainder of that annual solar cycle cast a shadow upon that solar collector. For the purposes of this chapter, the location of a solar collector is required to comply with the local building and setback regulations, and to be set back not less than five feet from the property line, and no less than 10 feet above the ground. A collector may be less than 10 feet in height, only if in addition to the five feet setback, the collector is set back three times the amount lowered.

§ 25983. Violations; public nuisance; notice to abate; prosecution; penalty

Every person who maintains any tree or shrub or permits any tree or shrub to be maintained in violation of Section 25982 upon property owned by such person and every person leasing the property of another who maintains any tree or shrub or permits any tree or shrub to be maintained in violation of Section 25982 after reasonable notice in writing from a district attorney or city attorney or prosecuting attorney, to remove or alter the tree or shrub so that there is no longer a violation of Section 25982, has been served upon such person, is guilty of a public nuisance as defined in Sections 370 and 371 of the Penal Code and in Section 3480 of the Civil Code. For the purposes of this chapter, a violation is hereby deemed an infraction. The complainant shall establish to the satisfaction of the prosecutor that the violation has occurred prior to the prosecutor's duty to issue the abatement notice. For the purpose of this section, "reasonable notice" means 30 days from receipt of such notice. Upon expiration of the 30-day period, the complainant shall file an affidavit with the prosecutor alleging that the nuisance has not been abated if the complainant wishes to proceed with the action. The existence of such violation for each and every day after the service of such notice shall be deemed a separate and distinct offense, and it is hereby made the duty of the district attorney, or the city attorney of any city the charter of which imposes the duty upon the city attorney to prosecute state infractions, to prosecute all persons guilty of violating this section by continuous prosecutions until the violation is corrected. Each and every violation of this section shall be punishable by a fine not to exceed one thousand dollars (\$1,000).

§ 25984. Inapplicability of chapter to certain trees

Nothing in this chapter shall apply to trees planted, grown, or harvested on timberland as defined in Section 4526 or on land devoted to the production of commercial agricultural crops. Nothing in this chapter shall apply to the replacement of a tree or shrub which had been growing prior to the installation of a solar collector and which, subsequent to the installation of such solar collector, dies.

§ 25985. Ordinance to exempt city or unincorporated areas from provisions of chapter

Any city, or for unincorporated areas, any county, may adopt, by majority vote of the governing body, an ordinance exempting their jurisdiction from the provisions of this chapter. The adoption of such an ordinance shall not be subject to the provisions of the California Environmental Quality Act (commencing with Section 21000).

§ 25986. Passive or natural solar system which impacts on adjacent active solar system; action to exempt from provisions of chapter

Any person who plans a passive or natural solar heating system or cooling system or heating and cooling system which would impact on an adjacent active solar system may seek equitable relief in a court of competent jurisdiction to exempt such system from the provisions of this chapter. The court may grant such an exemption based on a finding that the passive or natural system would provide a demonstrably greater net energy savings than the active system which would be impacted.